

### **Legislative Agent Registration Fee Increase**

SECTION 4. Section 41 of chapter 3 of the General Laws is hereby amended by striking the second paragraph and inserting in place thereof the following:-

The state secretary shall assess each executive and legislative agent a filing fee upon entering said agent's name upon the docket. Registration fees shall be \$1,000 for initial annual registration and \$1,000 for subsequent annual registrations.

### **Executive Office of Economic Affairs Reorganization 1**

SECTION 5. Section 17A of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "finance", in line 3, the following words:- , the secretary of economic affairs.

### **Alcoholic Beverage Control Commission**

SECTION 6. Chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out sections 43, 44, and 45.

### **EOEA Reorg 1**

SECTION 7. Section 116A of chapter 6 of the General Laws, as amended by section 4 of chapter 196 of the Acts of 2002, is hereby further amended by striking out, in line 15, the words "metropolitan district commission".

### **Assessing Photo ID Cards for the Blind**

SECTION 8. Section 135 of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:—

The fee for each identification card issued by the commission shall be not less than \$15. This card shall be valid for 5 years and then may be renewed for a fee of not less than \$15. If a card is lost or stolen, the commission may issue a duplicate card for a fee of not less than \$10. No fee shall be collected from a person registered with the commission who is receiving supplemental security income pursuant to title XVI of the federal Social Security Act, 42 U.S.C. §1381 et seq. The commission shall determine these fees annually by regulation.

### **Assessing Certifications for the Blind**

SECTION 9. Section 136 of said chapter 6, as so appearing, is hereby amended by adding the following paragraph:—

The commission may issue a certificate of blindness to certify that a resident of the commonwealth is legally blind as defined in this section. The commission shall charge a fee of not less than \$10 for each certificate of blindness that it issues. No fee shall be collected from a person registered with the commission who is receiving supplemental security income pursuant to title XVI of the federal Social Security Act, 42 U.S.C. §1381 et seq. The commission shall determine this fee annually by regulation.

### **Transfer of the Committee on Criminal Justice to the Executive Office of Public Safety**

SECTION 10. Section 156 of chapter 6 of the General Laws is hereby amended by inserting after the word "be" in line 1 the following words:- ,within the executive office of public safety,.

### **EOEA Reorg 2**

SECTION 11. Section 156 of said chapter 6, as amended by section 12 of chapter 196 of the Acts of 2002, is hereby further amended by striking out, in line 7, the words "metropolitan district commission".

### **Criminal Offender Records Information Request Fees**

SECTION 12. Chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking section 172A and inserting in place thereof the following section:—

Section 172A. The criminal history systems board shall assess a fee of \$30 for each request for criminal offender record information. Such fees shall not be assessed for such requests from a victim of crime, witness, or family member of a homicide victim, all as defined by section 1 of chapter 258B, from a governmental agency, or from such other person or group of persons as the board shall exempt. The criminal history systems board shall assess a fee of \$25 for each request for criminal offender record information from an individual seeking to obtain criminal offender record information pertaining to himself provided, however, that upon a showing of indigency as defined in section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the general fund.

### **Sex Offender Registration Fee**

SECTION 13. Said chapter 6 is hereby amended by inserting after section 178P the following section:—

Section 178Q. The sex offender registry board shall assess upon every sex offender a sex offender registration fee of \$75, in this section called the sex offender registry fee. The offender shall pay the sex offender registry fee upon his initial registration as a sex offender and

annually thereafter on the anniversary of the registration. No such fee shall be assessed or collected until the offender has either (1) waived his right to petition for an evidentiary hearing to challenge his duty to register as a sex offender under section 178L, or (2) completely exhausted the legal remedies made available to him to so challenge the duty to register pursuant to sections 178L and 178M and has not prevailed in his attempt to eliminate that duty. A sex offender's duty to pay the fee established by this section shall only terminate upon the termination of the offender's duty to register as a sex offender under section 178G.

The sex offender registry board may waive payment of the sex offender registry fee if it determines that the payment would constitute an undue hardship on the offender or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that the offender is determined to be unable to pay the sex offender registry fee. The sex offender registry board shall establish by regulation procedures relative to the collection and waiver of such fee. The sex offender registry fee shall be collected by the sex offender registry board and shall be transmitted to the treasurer for deposit into the General Fund. The sex offender registry board shall account for all such fees received and report these fees annually to the secretary of administration and finance and the house and senate committees on ways and means.

#### **Child Abuse Prevention Board**

SECTION 14. Section 202 of chapter 6 of the General Laws, as appearing on the 2000 Official Edition, is hereby amended by adding at the end thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, the office of children, youth and family services within the executive office of health and human services shall facilitate the implementation of the stated purpose of the Children's Trust Fund but shall not exercise any supervision or control with respect to the board.

#### **Executive of Economic Affairs Reorganization 2**

SECTION 15. Section 2 of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "elder affairs" and inserting in place thereof the following words:- economic affairs, elder affairs.

#### **Commonwealth Development Coordinating Council**

SECTION 16. Chapter 6A of the General Laws is amended by adding the following new section:-

Section 8B. (a) There shall be a commonwealth development coordinating council responsible for preparing a coordinated development policy for the commonwealth addressing housing, transportation, capital development, economic development and the preservation of environmental resources in the commonwealth.

(b) The council shall be comprised of a chair appointed by the governor, the secretaries of the executive offices of economic development, housing and community development, environmental affairs and transportation and construction, and the commissioners of the department of capital asset management and maintenance, and of the department of energy, or their respective designees. The chair shall serve at the pleasure of the governor. The governor shall appoint the following advisory members: the chairman of the Massachusetts water resources authority, the chairman of the Massachusetts Bay transportation authority, the executive director of a regional transportation authority, three regional planning representatives, a municipal planning representative and a professional planner.

(c) The coordinated development policy shall:

- discourage wasteful use of land, water and energy resources;
- support revitalization and reinvestment in urban areas and older suburbs; encourage reuse and rehabilitation of existing infrastructure rather than the construction of new infrastructure in undeveloped areas;
- protect, to the maximum extent possible, environmentally sensitive lands, natural resources, wildlife habitats and cultural and historic landscapes;
- support a range of convenient and affordable transportation choices;
- protect economically productive natural areas including farmland and forests;
- provide an adequate supply of affordable housing for all income levels throughout each community, particularly households earning 50 per cent or less of the area median income, as defined by the federal department of housing and urban development;
- encourage a clear and transparent development approval process; encourage regional solutions and approaches to planning for transportation, housing development and water supply;
- require coordination among state agencies on sustainable growth efforts; encourage coordination and cooperation among all state agencies; and
- ensure that funding and construction activities by state agencies do not promote development that is inconsistent with state, regional and local sustainable development plans.

(d) The council shall:

- coordinate and make recommendations to capital planning done by agencies and political subdivisions of the commonwealth;
- resolve inconsistencies between agency plans and local or regional sustainable development plans;
- encourage state agencies to consider secondary growth impact in capital planning and to site facilities in areas with infrastructure rather than undeveloped areas;
- direct appropriate agencies to provide technical assistance as necessary to municipalities in their growth planning;
- develop comprehensive policies and principles regarding the disposition, reuse and development of surplus commonwealth property which shall maximize the development of affordable housing, particularly near mass transit facilities, minimize environmental impact and respect local and regional input;
- develop as part of the coordinated development plan, based on public hearing process, a long-term state-wide transportation plan for the commonwealth that includes planning for inter-modal and integrated transportation;
- develop, based on public hearing process, procedures to be used for transportation project selection in which the executive office of transportation and construction, the department of highways and any regional planning district organized pursuant to chapter 40B participate to the extent found to be appropriate by the council; and
- establish criteria for project selection to be used in the procedures developed pursuant to clause (7).

## **Health and Human Services Reorganization 1**

SECTION 17. Chapter 6A of the General Laws is hereby amended by striking out section 16, as amended by section 6 of chapter 177 of the acts of 2001, and inserting in place thereof the following section: -

Section 16. The executive office of health and human services shall serve as the principal agency of the executive department for the following purposes: (a) developing, coordinating, administering and managing the health, welfare and human services operations, policies and programs; (b) supervising and managing the organization and conduct of the business affairs of the departments, commissions, offices, boards, divisions, institutions and other entities within the executive office to improve administrative efficiency and program effectiveness and to preserve fiscal resources; (c) developing and implementing effective policies, regulations and programs to assure the coordination and quality of services provided by the secretary and all of the departments, agencies, commissions, offices, boards, and divisions; (d) acting as the single state agency under section 1902(a)(5) of the Social Security Act authorized to supervise and administer the state programs under title XIX, for the programs under titles IV (A), IV (B), IV (E), XX and XXI of the Social Security Act, and for the programs under the Rehabilitation Act; and (e) maximizing federal financial participation for all agencies, departments, offices, divisions and commissions within the executive office.

The executive office of health and human services shall include: (1) the office of elder services, which shall include the department of elder affairs under the direction of a secretary of elder affairs, who shall be appointed by the governor; (2) the office of health services, which shall include the department of public health, the department of mental health, the division of medical assistance and the Betsy Lehman center for patient safety and medical error reduction; (3) the office of children, youth and family services, which shall include the department of social services, the department of transitional assistance, the department of youth services, the office of child care services, the child abuse prevention board and the office for refugees and immigrants; (4) the office of disabilities and community services, which shall include the department of mental retardation, the Massachusetts rehabilitation commission, the Massachusetts commission for the blind, the Massachusetts commission for the deaf and hard of hearing and the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke; (5) the department of veterans' services under the direction of the secretary of veterans' services, who shall be appointed by the governor; (6) the managed care oversight board; and (7) the health facilities appeals board.

The governor shall appoint a secretary of health and human services, who shall serve at the pleasure of the governor and shall act as the executive officer in all matters pertaining to the administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, commissions, offices, boards, divisions and other agencies within the executive office.

The secretary shall have the authority to: (a) through the department of elder affairs and the division of medical assistance and other agencies within the executive office, as appropriate, operate and administer the programs of medical assistance and medical benefits under chapter 118E; provided, however, that the executive office under the direction of the secretary shall be the single state agency under section 1902(a)(5) of the Social Security Act, under Title XIX agency, for programs under titles IV(A), IV(B), IV(E), XX and XIX of the Social Security Act and for programs under the Rehabilitation Act; (b) establish certain rates of payment for health care services pursuant to section 2A of chapter 118G; (c) coordinate and supervise the administration of the executive office and its agencies to promote economy and efficiency and improve service delivery; (d) establish uniform regional and area boundaries for the agencies within the executive office; (e) establish uniform contracting and payment procedures for the executive office and its agencies; (f) develop and implement a management information system for the management of fiscal, client and program data necessary for the efficient administration of the agencies within the executive office; (g) promulgate, pursuant to chapter 30A, regulations regarding the sharing of data, including personal data, between and among the executive office and its agencies, subject to appropriate protections for the confidentiality of client data; (h) execute all instruments necessary for carrying out the business of the executive office and its agencies; (i) acquire, own, hold, dispose of, lease and encumber property in the name of the executive office and its agencies; (j) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the executive office or its agencies; (k) charge and collect fees, rentals and other charges as may be reasonable and necessary for carrying out the business of the executive office and its agencies; (l) apply for and accept funds, including grants, bequests, gifts and contributions on behalf of the commonwealth in accordance with section 6 of chapter 29B; and (m) serve as the executive and administrative head of each office, department, division, bureau, section, agency and other administrative unit within the executive office, except as specifically provided by law. The secretary may delegate any of the foregoing powers to an officer having charge of a department, office, division or other administrative unit within the executive office.

The secretary of health and human services may appoint an assistant secretary for each of the following offices: health services; disabilities and community services; and children, youth and family services. The assistant secretaries shall serve at the pleasure of the secretary and shall perform such duties as the secretary shall determine. Notwithstanding any general or special law to the contrary, the secretary may appoint an individual to serve simultaneously as the commissioner of any agency within the executive office and as an assistant secretary for the offices of health services, disability and community services and children, youth and family services. If the secretary appoints an individual to serve simultaneously as a commissioner and assistant secretary, the individual shall only be compensated for service in 1 office.

The secretary may appoint, consistent with sections 3 and 7, whatever personnel he deems necessary or desirable for the effective performance of the executive office. Such personnel shall perform such duties as the secretary shall determine and serve at the pleasure of the secretary.

The secretary shall establish a performance measurement system for the agencies within the executive office, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of human services programs, service delivery and policy decision-making. The performance measurement system shall require each agency to develop a strategic plan for program activities and performance goals. The system shall require annual program performance reports which shall be submitted to the house and senate committees on ways and means and the joint committee on human services and elder affairs.

## **Non-Profit Pharmacy Benefits Manager and Coordinated Procurement Plan**

SECTION 18. Chapter 6A of the General Laws is hereby amended by adding the following section:-

Section 16A1/2. (1) Notwithstanding any general or special law to the contrary, the secretary of the executive office of health and human services, in consultation with the secretary of administration and finance and the secretary of public safety, shall, within 180 days of the effective date of this act, develop and implement a coordinated prescription drug procurement plan for all pharmacy benefit plans funded or subsidized, in whole or in part, by the commonwealth, including, but not limited to, the senior drug insurance plan authorized under section 39 of chapter 19A of the General Laws, pharmacy plans under the division of medical assistance, departments of public health, mental retardation and mental health, and corrections, and the pharmacy plan under the group insurance commission authorized under chapter 32A. The plan shall

maximize cost savings, efficiencies, affordability and be designed to improve health outcomes, benefits and coverage in such pharmacy benefit plans.

(2) As part of the prescription drug procurement plan, the secretary shall contract with a third party non-profit pharmacy benefits manager to provide pharmacy benefit management services and negotiate pharmaceutical discounts, rebates and/or other prescription related cost savings with pharmaceutical manufacturers on behalf of the commonwealth. The secretary shall contract with a non-profit corporation or establish an inter-governmental service agreement for the provision of pharmacy benefit management services. The non-profit pharmacy benefits management corporation shall have experience in the administration of publicly-funded health benefit plans and shall be qualified to assess and manage the clinical efficacy and cost-effectiveness of the pharmacy benefit plans for the commonwealth. The non-profit pharmacy benefits management corporation shall be deemed to possess a fiduciary responsibility to such pharmacy plans.

(3) The Secretary shall ensure that the procurement plan employs clinically-based tools to maximize cost savings, efficiencies, affordability, and to improve health outcomes and access to pharmacy benefits and coverage and effectively management the pharmacy plans of the commonwealth. Such tools may include, but not be limited to:

(a) A statewide preferred drug list, provided that the prescription drugs adopted for said list shall be subject to periodic clinical review and shall be adopted based on evidence from clinical literature;

(b) Clinically appropriate and effective disease management programs to ensure the safe, appropriate, and coordinated utilization of prescription drugs by benefit plan participants, such as comprehensive polypharmacy and duplicate drug therapy monitoring programs;

(c) Development of appropriate processes to ensure access to clinically appropriate prescription drug therapies and medically-necessary prescriptions.

(4) The secretary shall not enter into a contract or agreement with a pharmacy benefits manager unless it shall agree to disclose to the secretary such relevant financial and business information as he may require, in a manner that preserves confidentiality of any proprietary information, including but not limited to the following: (a) net cost of prescription drugs purchased or reimbursed for by the commonwealth, including discounts and rebates; and (b) total revenue from pharmaceutical manufacturers directly or indirectly related to utilization of commonwealth plans, such as rebate revenue, marketing funds, grants, access fees, data reporting payments and administrative fees. Such information provided by the pharmacy benefits manager to the secretary shall not be considered a public record under chapter 66 of the General Laws.

(5) No contract currently in existence with any agency or pharmacy benefit plan shall be terminated before its expiration date solely due to the provisions of this section. No contract currently in existence with any agency or pharmacy benefit plan shall be renewed or extended in a manner inconsistent with this section.

(6) For the purposes of paragraph (c) of section 39 of chapter 19A of the general laws, this section shall be considered a successor statute to section 62 of chapter 177 of the Acts of 2001 but shall not be construed to have the effect of repealing chapter 62.

(7) The secretary shall submit, on April 15 of each year, a report detailing the coordinated prescription drug procurement plan to the house and senate clerks, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on health care. The report shall include, but not be limited to, a review of the pharmacy benefit manager's designated formulary and an analysis of: 1) the actual discounts or rebates received as a result of the plan and other prescription related cost savings information for each prescription benefit plan funded in whole or in part by the commonwealth; 2) administrative costs relating to the prescription drug benefits in each plan; and 3) disease management or other programs implemented to improve health outcomes including drug therapy coordination and safe utilization of prescription drugs. The report shall also include recommendations for enhancing the benefits provided by each plan, saving costs, reducing inefficiencies and otherwise improving access and quality.

## **Health and Human Services Reorganization 2**

SECTION 19. Section 16B of said chapter 6A, as appearing in the 2000 Official Edition, is hereby amended by adding the following sentence:- This section shall not apply to chapter 118E medical care and assistance to eligible persons aged 65 and over as those services shall be administered by the secretary of elder affairs pursuant to section 1 of chapter 19A.

## **Interagency Children's Services Teams**

SECTION 20. Chapter 6A of the General Laws, as so appearing, is hereby amended by inserting after section 16D the following section:-

Section 16E. The secretary of the executive office of health and human services shall convene interagency children's services teams to establish effective means of collaboration among and between human service agencies and other entities, including but not limited to school districts, for the provision of supports and services to children and to determine which agency or agencies within the jurisdiction of the secretary shall provide or contract for appropriate services to a child in cases when disputes arise among agencies over the delivery of services to a child or when such services are not being provided to a child. For purposes of this section, "agency" shall mean any department, office, commission, board, institution or other agency of the commonwealth within the executive office of health and human services. The teams shall be created on a local or regional basis in accordance with regulations to be developed by the secretary.

The secretary or his designee shall chair the local or regional interagency children's services teams and preside over meetings. Such interagency teams shall also include the commissioner or chief executive officer, or his designee, of the following agencies: the department of public health, the department of social services, the department of education, the department of transitional assistance, the department of mental retardation, the department of mental health, the commission on the deaf and hard of hearing, the Massachusetts rehabilitation commission, the commission for the blind or any other agency as deemed necessary by the secretary to ensure delivery of appropriate and needed services to a child.

The interagency teams shall review such cases on a local or regional basis; seek to identify the assessments and services that might be provided to a family; provide opportunities to receive testimony and evidence from the child, the child's family, the representative of the child or family or the representative or other employee of any agency; designate an agency or agencies to act as a lead agency and develop a plan for collaboration; if necessary, designate an agency or agencies to provide or contract for such services; and direct a designated agency or agencies to accept responsibility for the child and provide or contract for such services.

Students may be referred to the local interagency team by a school district, by any agency or department of the State, or by a parent, guardian, surrogate parent, other service provider of the child, educational advocate or legal advocate representing the child. Written consent of the parent or guardian shall be required prior to any sharing of information concerning a child and all federal and state laws and regulations regarding consent, confidentiality, and privilege shall apply. The child's parent(s), guardian, surrogate parent, educational advocate, or legal advocate shall be provided notice in their primary language of their rights pursuant to this section, including notice of any referral, the requirement for parental consent to the release of any information and records, and copies of all writings produced by the team; shall be part of the interagency team and shall be invited to interagency team meetings and participate actively in its work as it affects their child.

The interagency teams shall have full access to, and the agencies shall provide all information relevant to such cases provided that appropriate consent is provided by parents or students, as may be established by applicable statutes or regulations. All confidential information shall be returned to its originating source upon completion of the team's work and shall not be retained by the interagency team or any member thereof and no member of the interagency team shall disseminate any confidential information revealed to any other individual or entity.

The interagency teams shall keep written records concerning the work of the interagency team with respect to each child referred to it, including information as to the services or placement sought, alternatives considered, conclusions reached, any further recommendations and the membership of the team. The parents, local school district and all relevant agencies shall be promptly informed of the results of the interagency team's work. A student's parents, legal guardian, surrogate parent and educational advocate, and legal advocate shall have the right, upon request, to review or request copies of the written records maintained by the interagency team. Said written records maintained by the interagency team shall be kept by the secretary, shall be kept confidential and shall not be disseminated by any team member.

Nothing herein shall be construed to alter individual education plan development processes, service provision or placement processes applicable to school districts or to alter existing due process rights and procedures under state or federal law. Further, the child and his or her parent(s), legal guardian, or educational surrogate will retain all applicable rights to consent or not to consent to any offered service that might be offered or recommended by the interagency team. Nothing herein shall be construed to require presentation of any issue to the interagency team before using any of the remedies under federal and state law including complaints to the department of education and hearings and mediations before the bureau of special education appeals.

If no collaborative plan is developed and no decision is agreed upon by a majority of the interagency team, the secretary shall designate and require an agency to provide appropriate and needed services to such child. If a designated agency fails to provide services to a child in a manner consistent with the decision of the team, the secretary shall review the matter. If the secretary finds that such decision of the interagency team is reasonable and within the jurisdiction of the designated agency, he shall direct such agency to provide services in accordance with the decision of the interagency team and shall take any other action consistent with state law to ensure that appropriate services are provided to the child.

The secretary shall issue regulations as to the operation of the interagency teams. These regulations shall mandate that the entire team process, including notification to all parties of the team's decision, shall be completed in no less than thirty working days. Said regulations shall set forth an appeal pursuant to chapter 30A to a hearing officer appointed by the secretary.

For purposes of this section, "child" shall mean a person under the age of eighteen, or under the age of twenty-two if such person is disabled or has special needs.

The secretary shall issue an annual report summarizing the activities of the teams during the preceding fiscal year.

### **Executive Office of Economic Affairs Reorganization 3**

SECTION 21. Said chapter 6A is hereby further amended by inserting after section 16F the following section:-

Section 16G. (a) Within the executive office of economic affairs, there shall be a department of business and technology, a department of consumer affairs and business regulation and a department of labor and workforce development. Subject to appropriation, the departments shall be provided with offices in Boston and elsewhere as may be approved by the governor and may expend sums for necessary expenses of those departments. The executive office may accept gifts or grants of money or property whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

(b) The following state agencies shall be within the department of business and technology: the office of business development, the office of small business and entrepreneurship, the office of science and technology, the office of travel and tourism, the trade office and the office of minority and women business assistance.

(c) The following state agencies shall be within the department of consumer affairs and business regulation: the state racing commission, the division of banks, the division of insurance, the department of telecommunications and energy, the division of professional licensure and the division of energy resources.

(d) The following divisions shall be within the department of labor and workforce development, as further provided for in chapter 23: the division of workplace dispute resolution, the division of employment security and the division of workforce training.

(e) The secretary of economic affairs shall be appointed by the governor and shall be a person of skill and experience in the field of economic development. The secretary shall serve at the pleasure of the governor, shall receive such salary as the governor shall determine and shall devote full time to the duties of his office.

(f) In the case of a vacancy in the office of the secretary or in the case of a disability, as determined by the governor, or in his absence, the governor may designate an acting secretary to serve until the vacancy is filled or the absence or disability, as determined by the governor, ceases. The acting secretary shall have all the powers and duties of the secretary and shall have like qualifications.

(g) The secretary shall appoint a director for each department within the executive office. Any such director and any inspectors and other full-time employees appointed shall devote their full time during business hours to the duties of their offices and shall not engage in other employment or business activities during business hours. In accordance with chapter 30A, the secretary shall require the directors of each department to develop performance measures to evaluate the effectiveness of the individual agencies and programs in accomplishing their missions. The measures shall include, but not be limited to:

income levels of program participants before and after participation in training programs administered by the division, completion rates, placement rates and the total number of individual participants in the division's programs, employer satisfaction with the programs and direct training expenditures as a share of total expenditures; or

the number of complaints filed, the number of caseworkers per completed case, the number of caseworkers per uncompleted case, the rates of incidences of occupational injuries and illnesses, enforcement actions as a share of complaints received and prevention costs as a share of total program costs.

(h) The secretary shall require the departments within the executive office to report on the measures annually by December 15 to the clerks of the house of representatives and the senate and the house and senate committees on ways and means. In its report, each department may include explanations as to why the measures may or may not give a true indication of the effectiveness of the programs.

(i) The secretary shall establish in the executive office an office of planning and research for economic development. The office shall compile and produce statistics and analyses regarding labor markets and the general economic situation, in order to assist workers and businesses and to assist departments within the executive office in carrying out their missions. The secretary may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the office in the discharge of its duties. Subject to appropriation, the secretary may appoint a senior staff member who shall be responsible for developing a comprehensive plan to promote economic development in all regions of the commonwealth. Nothing in this section shall confer any powers or impose any duties upon the secretary with respect to the foregoing agencies except as expressly provided by law.

#### **EOPS Reorg 1**

SECTION 22. Section 18 of chapter 6A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "police", in line 7, the following words:- ; the office of commonwealth security; the department of forensic sciences.

#### **EOPS Reorg 2**

SECTION 23. Section 18 ½ of chapter 6A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The secretary shall, subject to the provisions of section 3, appoint 3 undersecretaries.

#### **EOPS Reorg 3**

SECTION 24. Section 18½ of chapter 6A, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

One undersecretary shall be the undersecretary of commonwealth security and shall oversee the functions and administration of the office of commonwealth security and shall be responsible for developing, coordinating, implementing and overseeing policies and programs relative to commonwealth security and emergency preparedness and administering state and federal grant programs to provide comprehensive initiatives relative to commonwealth security and emergency preparedness. Said undersecretary shall advise the secretary on all matters relative to anti-terrorism and emergency preparedness, develop and implement such policies and procedures as he deems necessary to carry out the mission of said office and coordinate with appropriate federal, state and local law enforcement and criminal justice agencies to develop cohesive strategies to ensure the security of the commonwealth and its residents.

#### **Human Services Contracts**

SECTION 25. Section 4A of chapter 7 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting at the end thereof the following paragraphs:-

In the event a new governmental mandate effective on or after July 1, 2003 is imposed upon a contractor providing a social services program, as defined in section 274 of chapter 110 of the acts of 1993, to a governmental unit, as defined in said section, and compliance with such governmental mandate has or will have a material adverse financial impact on the contractor, the governmental unit shall negotiate a contract amendment with the contractor to increase the maximum obligation amount or unit price to offset the material adverse financial impact of the new governmental mandate, provided that the contractor furnishes substantial evidence to the governmental unit of such material adverse financial impact along with a request to renegotiate based on a new governmental mandate.

For the purposes of this section, a "new governmental mandate" shall mean a statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that was not in effect when the contract was originally entered into and directly or indirectly imposes an obligation upon the contractor to take any action or to refrain from taking any action.

For the purposes of this section, a "material adverse financial impact" shall mean: (a) an increase in the reasonable costs to the contractor in performing the contract of the lesser of (i) three percent (3%) of the maximum obligation amount or unit price of the contract, or (ii) five thousand dollars (\$5,000), in aggregate as a result of all such mandates in effect during the contract year; or (b) an action that affects the core purpose and primary intent of the contract.

Any contractor aggrieved by a decision of a governmental unit denying or failing to negotiate a contract amendment to remedy a material adverse impact of a new governmental mandate pursuant to the provisions of this section may appeal such adverse decision to the division of administrative law appeals in accordance with the section 4H of said chapter 7 for a hearing and decision de novo on all issues. A contractor's request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a determination is not received within 30 days of the governmental unit's receipt of the request. A contractor or governmental unit may appeal an adverse decision of the division of administrative law appeals to the Superior Court, Suffolk Division, pursuant to chapter 30A.

#### **Authorizing State Agencies and Departments to Procure Private Advertising Revenue**

SECTION 26. Chapter 7 of the General Laws is hereby amended by inserting, after section 4P, the following new section:-

Section 4Q. The commissioner may promulgate regulations authorizing an agency or department to:

(1) Enter into agreements with private vendors for the publication or production of public information brochures, pamphlets, audiotapes, videotapes, licenses or permits and related materials for distribution without charge to the public. Unless the vendor agrees to provide additional compensation, costs of publication or production will be borne in whole or in part by the vendor in exchange for the right to select, sell and place advertising that publicizes products or services related to and harmonious with the subject matter of the publication.

(2) Retain the right, by agreement, to approve all elements of an advertisement placed in such public information materials, including the form and content thereof.

#### **Privatization Threshold Increase**

SECTION 27. Chapter 7 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended, in section 53, by striking, in line 16, the words “one hundred thousand dollars” and inserting, in place thereof, the following:-

two hundred thousand dollars, provided that as of January 1 of every year, the amount shall increase to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12-month period for which data are available,

#### **Definition of Balanced Budget 1**

SECTION 28. Paragraph (a) of section 12 of chapter 7A of the General Laws, as appearing in the 2000 Official Edition, is hereby by amended by striking out, in lines 19 and 20, the words “consolidated net surplus in the operating funds” and inserting in place thereof the following words: - consolidated net surplus in the budgetary funds.

#### **Extension of Revenue Intercept Program to Housing Authorities 1**

SECTION 29. Subsection (a) of section 18 of chapter 7A of the General Laws, as inserted by section 8 of chapter 184 of the acts of 2002, is hereby further amended by inserting, after the words “agency of a city or town” the following words:— , housing authority,

#### **EOEA Reorg 3**

SECTION 30. Section 9 of chapter 8, as so appearing, is hereby amended by striking out, in line 19, the words “district commission” and inserting in place thereof the following word:- park.

#### **EOEA Reorg 4**

SECTION 31. Said section 9 of said chapter 8, as so appearing, is hereby further amended by striking out, in line 20, the word “security” and inserting in place thereof the following words:- security; provided, further that the commissioner shall utilize the members of the former metropolitan district commission rangers program for such security;.

#### **State House Special Events Fund II**

SECTION 32. Chapter 8 of the General Laws is hereby amended by striking out section 9A and inserting in place thereof the following:

Section 9A. The state superintendent of state office buildings is hereby authorized and directed to establish and charge a fee or service charge to non-governmental individuals, entities and groups using the state house for meetings, receptions or exhibits, which may be waived at the discretion of the superintendent. The superintendent or his designee shall establish such fees or charge based upon the actual cost of use including personnel, requests for security preparation equipment replacement and cleanup and utilities used, as well as compensation for wear on the building. The superintendent or his designee shall also have the authority in his discretion to require non-government entities to enter into a written agreement indemnifying the commonwealth against any claims for casualty liability and may require the posting of an insurance bond. All monies received by the superintendent under this section shall be by check made payable to the State House Special Event Fund and shall be deposited in the State House Special Event Fund established by section thirty-five P of chapter ten; provided, however, that said superintendent may retain an amount not to exceed \$200,000 to be expended after consultation with the state secretary for equipment replacement and educational and cultural programs at the state house.

#### **Cash Flow Submission Dates**

SECTION 33. Section 10 of chapter 10 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking the second paragraph and inserting in place thereof the following:—

The Treasurer shall prepare and submit to the house and senate committees on ways and means on or before the last day of August, November, February, and May, official cash flow projections for the current fiscal year and for the fiscal quarters beginning October 1, January 1, April 1, and July 1, respectively.

#### **Natural Heritage and Endangered Species Fund -Trust**

SECTION 34. Section 35D of chapter 10 of the general laws is hereby amended by striking out, in line 15, the following words:- subject to appropriation.

#### **Motorcycle Safety Fund Repeal**

SECTION 35. Section 35G of chapter 10 of the General Laws is hereby repealed.

#### **Low Level Radioactive Waste Trust Fund Repeal**

SECTION 36. Section 35H of said chapter 10 of the General Laws is hereby repealed.

#### **DOI Trust Fund Repeal**

SECTION 37. Section 35L of said chapter 10 is hereby repealed.

#### **State House Special Events Fund I**

SECTION 38. Section 35P of chapter 10 of the general laws is hereby amended by striking the section in its entirety and replacing it with the following section:-

There shall be established upon the books of the commonwealth a separate fund to be known as the State House Special Event Fund. The superintendent of state buildings is hereby authorized and directed to establish and charge a fee or service charge to non-governmental individuals, entities and groups using the state house for meetings, receptions, or exhibits, which may be waived at the discretion of the superintendent. The superintendent or his designee shall establish such fees or charge based upon the actual cost of use including personal requests for security preparation, equipment replacement, cleanup and utilities used as well as compensation for wear on the building. The superintendent or his designee shall also have the authority in his discretion to require non-governmental entities to enter into a written agreement indemnifying the commonwealth against any claims for casualty liability and may require the posting of an insurance bond. All monies received by the superintendent under this section shall be by check made payable to and deposited in the State House Special Event Fund; provided, however, that said superintendent may retain an amount not to exceed \$200,000 annually to be expended after consultation with the state secretary for equipment replacement and educational and cultural programs at the statehouse.

#### **Diversity Awareness Fund Repeal**

SECTION 39. Section 35Q of said chapter 10 is hereby repealed.

#### **Teacher Principal Superintendent Quality Endow Fund Repeal**

SECTION 40. Section 35S of chapter 10 of the General Laws is hereby repealed.

#### **Division of Professional Licensure Fees**

SECTION 41. Section 35V of chapter 10 of the General Laws, as appearing in section 7 of chapter 177 of the acts of 2001, is hereby amended by inserting after the words "subsection (b)" in the first sentence the following words:- "and (c)".

#### **Division of Professional Licensure Fees**

SECTION 42. Section 35V of said chapter 10 of the General Laws, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase fees for obtaining and renewing a license, certificate, registration, permit or authority issued by a board within the division of professional licensure by an amount not to exceed 50 per cent, rounded to the nearest dollar, of the fees in effect as of July 1, 1996 to be expended by the director of the division of professional licensure pursuant to subsection (a). The secretary of administration and finance may increase the fees of any board of registration established subsequent to July 1, 1996 based on the amount of the fee at the time of the board's original promulgation by the secretary of administration and finance. The secretary of administration and finance shall promulgate regulations to effect the change in fees no later than 45 days following the fee increase.

#### **Division of Professional Licensure Fees**

SECTION 43. Section 35V of said chapter 10 of the General Laws as so appearing, is hereby further amended by inserting after subsection (b), the following subsection:-

(c) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fee for obtaining or renewing a license, certificate, registration, permit or authority issued by a board and also fees for an appeal, variance request, approval, plan review, fuel review and any and all other ancillary fees charged for services with the division of professional licensure as set forth in 801 CMR 4.02 by an additional amount not to exceed 50 per cent, rounded to the nearest dollar, of the fees in effect on January 1, 2003 or at the time of the original promulgation of the board, whichever date is later. Amounts collected pursuant to this subsection shall become part of the fund established pursuant to subsection (a) of this section and shall be expended by the director of the division of professional licensure pursuant to subsection (a) of this section.

#### **Increasing DPH Board Fees**

SECTION 44. Section 35X of chapter 10 of the General Laws, as so inserted by section 10 of chapter 184 of the acts of 2002, is hereby amended by inserting at the end thereof the following new subsection:—

(C) Notwithstanding the provision of any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fee for obtaining or renewing a license, certificate, registration, permit or authority issued by a board within the department of public health by an additional amount not to exceed 50 percent, rounded to the nearest dollar, of the fees in effect prior to the fee increases authorized pursuant to subsection (b), provided, that the fees for any board that has not increased fees pursuant to subsection (b) shall be



increased by an amount not to exceed 100 percent. One hundred percent of this increase shall be directed to the Quality in Health Professions Trust Fund.

#### **Domestic Violence and Family Health Preservation Trust Fund**

SECTION 45. Chapter 10 of the General Laws, 2000 Official Edition, shall be amended by inserting after section 35X the following:-

"Section 35Y. (a) There shall be established upon the books of the commonwealth a separate fund to be known as the Trust Fund for the Prevention of Sexual and Domestic Violence and the Preservation of Family Health. There shall be credited to such fund all revenues received by the commonwealth from surcharges imposed by Sections 489 and 561 of this act; from speaking fees as described in Section 489 and 561 of this act; from appropriations; from gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and any federal funds made available.

(b) Amounts credited to the fund shall be available for expenditure by the department of public health without further appropriation, through a competitive grant process. Successful grants shall provide sexual assault and domestic violence prevention programs focused on reducing the long term effects and incidences of sexual assault and domestic violence including teen dating violence, programs focused on providing family planning services, programs focused on providing sexual assault prevention services, or programs focused on providing gay and lesbian youth suicide and violence prevention services. Successful grantees shall be community based non-profit organizations with a history of addressing the issues stated herein or units of government in collaboration with one or more community based non-profit organizations with a history of addressing the issues stated herein.

(c) The department of public health shall establish and chair an advisory board for the purpose of establishing priorities for the distribution of the funds. The members of this advisory board shall include, but not be limited to, one representative from each of the following entities; The department of education, the executive office of public safety, the attorney general's office, the Massachusetts office for victim assistance, the disabled persons' protection commission, the department of social services, the department of transitional assistance and Jane Doe Inc.

(d) The department of public health may expend from the fund such amounts as are necessary for the department to administer the fund and shall annually submit a report to the house and senate committees on ways and means detailing the collections and disbursements of the fund.

#### **Emergency Finance Board**

SECTION 46. Section 47 of chapter 10 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "year" in line 31 the following sentence:—

The state treasurer and state auditor shall be equally responsible for all administrative costs associated with the board.

#### **Victim Witness Assistance Fund Repealed**

SECTION 47. Section 49 of chapter 10 of the General Laws is hereby repealed.

#### **Drug Analysis Fund Repeal**

SECTION 48. Section 51 of said chapter 10 is hereby repealed.

#### **Taking the Head Injury Trust Fund Off Budget**

SECTION 49. Section 59 of chapter 10 of the General Laws is amended by striking out the fourth and fifth sentences thereof and inserting in place thereof the following sentences:- Funds collected pursuant to said sections 24 and 20 shall be expended without further appropriation for the purpose of developing and maintaining residential and nonresidential rehabilitation services for head injured persons in such manner as the commissioner of rehabilitation may direct. In order to ensure that said services established by the commissioner continue without interruption, the comptroller may certify for payment amounts in anticipation of revenues collected for the corresponding quarter during the previous fiscal year.

#### **Alcoholic Beverage Control Commission**

SECTION 50. Chapter 10 of the general laws, as appearing in the 2000 official edition, is hereby amended by adding at the end thereof the following sections:-

Section 66. There shall be a commission to be known as the alcoholic beverages control commission, to consist of a commissioner and two associate commissioners appointed by the treasurer. Not more than two members shall be members of the same political party. The commissioner and one associate commissioner shall serve terms coterminous with that of the treasurer. One associate commissioner shall serve a four-year term. The commissioner shall serve as chairman and shall devote his full time during business hours to his official duties. The positions of commissioner and associate commissioners shall be classified in accordance with section 45 of chapter 30, and their salaries shall be determined in accordance with section 46C of said chapter 30. Any vacancy may be filled in like manner for the remainder of the unexpired term. The treasurer may remove any member for neglect of duty, misconduct, or malfeasance in office, after providing said member a written statement of the charges and an opportunity to be heard thereon. Two members shall constitute a quorum for the purpose of conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission.

Section 67. The commission shall have general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting, and selling of alcoholic beverages as defined in section 1 of chapter 138, and also of the quality, purity, and alcoholic content thereof.

The commission shall submit to the governor, the treasurer, and to the general court, as soon as possible after the end of each state fiscal year a full report of its action and of the conduct and condition of traffic in alcoholic beverages during such year, together with recommendations for such legislation as it deems necessary or desirable for the better regulation and control of such traffic and for the promotion

of temperance in the use of such beverages. The members shall receive their necessary traveling and other expenses incurred while in the performance of their official duties.

Section 68. The commission may appoint and remove a secretary. It may expend for such investigators, clerical, and other assistants as may be necessary for the performance of its duties such amounts as may be appropriated and said employees shall retain all collective bargaining and other rights previously held. The commissioner may appoint a chief investigator and other investigators, who shall be exempt from chapter 31, for the purpose of enforcing or causing to be enforced the penalties provided by law against every person who is guilty of a violation of chapter 138 of the general laws of which they can obtain reasonable proof, and shall make all needful and appropriate investigations for the said purpose. Each person who receives an appointment as an investigator shall complete a basic reserve police officer training course through the criminal justice training council and attend a basic training course conducted by the commission. All investigators shall attend an annual in-service training course pursuant to this section. Each member of the commission, and each of its employees having access to moneys received by it, shall give to the treasurer a bond for the faithful performance of his duties in a penal sum and with sureties approved by the treasurer.

#### **Additional Penalties for Board of Professional Licensure**

SECTION 51. Chapter 13 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 9B the following section: --

Section 9C. Each board of registration shall be immune from liability for actions taken in good faith in the discharge of its responsibilities. Board members acting in good faith in the discharge of their duties shall be defended by the attorney general and shall be eligible for indemnification of all costs and damages arising from claims and suits against them.

#### **Members of Board of Higher Education**

SECTION 52. Chapter 15A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. The board of higher education, hereinafter referred to as the board, shall be composed of 2 non-voting members and 9 voting members, consisting of the commissioner of education, ex officio, 5 members appointed by the governor, reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education. Of the appointed members, at least one shall be a representative of organized labor, at least one shall be a representative of the business community, and one shall be a member whom the governor shall choose from among no more than three full-time undergraduate students who shall be nominated, and who are currently enrolled in a public institution set forth in section five. Nominated students shall have maintained satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section 21. Of the 3 members chosen to represent public institutions of higher education, 1 shall be selected by vote of the chancellors of the state university campuses, 1 by vote of the presidents of the state colleges, and 1 by vote of the presidents of the community colleges. The 2 non-voting members shall be the house and senate chairs of the joint committee on education, arts, and humanities, or their designees. There shall be an office of the board consisting of a chancellor and employees appointed by said board.

Members of the board shall be appointed to serve five-year terms, except that the undergraduate student members shall be appointed annually to serve a term of one year's duration commencing initially upon appointment by the governor and expiring on April thirtieth and every year thereafter commencing on May first and expiring on April thirtieth as long as the member remains a full-time undergraduate throughout his one-year term. Within three consecutive years the student appointee shall be in the first year a student attending the state university, and in the second year a student attending a community college, and in the third year a student attending a state college. This cycle shall repeat. For the purpose of this section the Massachusetts College of Art and the Massachusetts Maritime Academy shall be deemed to be state colleges. Each of the student government associations at each of said public institutions may submit to the student advisory committee an individual nominated to be the undergraduate student member of the board. All guidelines for procedures and deadlines for the selection process of the undergraduate board members shall be established by the said student advisory committee, except as herein provided. No member shall be appointed for more than two consecutive terms, except that any student member may serve for one term only. Upon expiration of the term of office of a member, a successor shall be appointed in like manner. A vacancy shall be filled by the governor for the remainder of the term. The chairperson of the board, who shall be appointed by the governor, shall notify the governor whenever such vacancy exists. The board shall have an executive committee and such other committees as the board may from time to time establish.

The members of the board shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties.

No member of the board, except those members chosen to represent public institutions of higher education, shall be principally employed within the public higher education system of the commonwealth. No more than 2 of the voting members appointed by the governor shall be principally employed by the commonwealth. A member of the board shall cease to be a member if such member ceases to be qualified for appointment or if he is absent from five regularly scheduled meetings during any calendar year.

A person affiliated with an independent institution of higher education shall be eligible for membership on said board. No member of said board shall be found to be in violation of section 6 of chapter 268A for conduct which involves his participation, as a member of the board, in a particular matter before the board which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that said member, his immediate family or partner, has no personal and direct financial interest in said particular matter; and provided, further, that such affiliation is disclosed to said board and recorded in the minutes of the board.

The board shall meet six times per year, and at least once every two months, omitting meetings in the months of July and August; the chair may call additional meetings at other times.

Six members of the board shall constitute a quorum, and the affirmative vote of 5 members shall be necessary for any action taken by the board.

All members of the board appointed by the governor shall be appointed according to the provisions of section 18B of chapter 6.

#### **Authority to Close Colleges**

SECTION 53. Section 9 of chapter 15A of the General Laws is hereby amended by striking out, in line 16, as appearing in the 2000 Official Edition, the words “colleges, branches or institutions as it deems advisable” and inserting in place thereof the following words:- branches or institutions as it deems advisable. The council shall not close colleges without the authorization of the general court.

#### **Analysis by Board of Higher Education of Economic Trends**

SECTION 54. Said section is hereby further amended by inserting, in line 20, as so appearing, after the words “in the commonwealth” the following new words:- . Such analysis should include, but not be limited to, an analysis of state and local labor market trends and the economic development plans of the commonwealth.

#### **Board of Higher Education Five Year Master Plan**

SECTION 55. Said section is hereby further amended by inserting in line 24, as so appearing, after the words “which plan shall take into account” the following new words:- the analysis mandated in clause (c) of this section and.

#### **Higher Education Fees**

SECTION 56. Said section is hereby further amended by striking out, in lines 67 to 70, inclusive, as so appearing, the words,“; provided, that fees as defined by said guidelines, shall not exceed twenty-five percent of total student charges for the state colleges and the community colleges.”

#### **Submission of Data by Higher Education Campuses**

SECTION 57. Said section is hereby further amended by inserting, in line 99, as so appearing, after the words “on standardized examinations.” the following new sentence:-

In order to facilitate the timely use of such data, the board shall, in consultation with the public institutions of higher education, establish a schedule for submission of such data.

#### **Higher Education Tuition Retention**

SECTION 58. Chapter 15A of the General Laws is hereby amended by inserting after section 9B the following section:-

Section 9C. Notwithstanding any general or special law to the contrary, all tuition and fees received by a board of trustees of a public college or university shall be retained by the board of trustees of each institution in a revolving trust fund or funds and shall be expended as the board of the institution may direct. Any balance in the trust funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

#### **Allocation of Funds to Higher Education Campuses**

SECTION 59. Section 15 of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by striking out the fourth paragraph.

#### **Higher Education Funding Formula**

SECTION 60. Section 15B of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by inserting after the second paragraph, the following new paragraph:-

Boards of trustees in each segment of the higher education system shall prepare their budget request in accordance with funding formulas approved by the board of higher education. The board of higher education shall develop said formulas for the institutions within the state and community college segments in consultation with the boards of trustees. The university trustees shall develop funding formulas in consultation with the campus administrations and submit said formulas for approval by the board of higher education. All funding formulas shall be periodically reviewed and revised as needed.

#### **Submission of Budget Requests for Higher Education Campuses**

SECTION 61. Said section 15B, as so appearing, is hereby further amended by striking out, in lines 23 to 25, inclusive, the words “attaching whatever comments and recommendations it may desire or deem necessary. Said comments and recommendations shall be consistent with the aforementioned funding formulas, statewide needs and the adopted institutional and system long range plans.” and inserting in place thereof the following words:-

and shall attach comments and recommendations for use by the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. In the case of the university, it shall be the responsibility of the trustees to submit comments and recommendations regarding the budget requests of individual campuses within the university system to the board of higher education. In the case of any institution, or the university, having failed to submit data according to the schedule established under the provisions of section 9 (s) of this chapter, the board of higher education may withhold transmittal of the budget request from that board of trustees to said secretary and committees. The comments and recommendations attached by the board of higher education for each state and community college and by the board of trustees of the university for each university campus, shall be consistent with the aforementioned funding formulas, statewide needs, performance measurement standards, as well as the mission statements and five-year plans for individual campuses and the public higher education system as a whole. They shall also reflect analysis by the respective boards for each campus regarding progress made by the campuses in fulfilling strategic plans including, but not limited to, significant achievements and progress in addressing any previously identified deficiencies. Said comments and recommendations shall be made available to the individual institutions

and campuses prior to submission to the secretary and legislative committees with sufficient time allowed to provide opportunity for comment and response by those institutions and campuses.

#### **Submission of Higher Education Data**

SECTION 62. Section 22 of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 41 to 43, inclusive, the words “on or before the first Wednesday of December in each year; (m) submit financial data and an annual institutional spending plan to the council for review,” and inserting in place thereof the following words:- to the board of higher education according to a schedule determined by said board in consultation with the board of trustees; (m) submit financial data and other data as required by the board of higher education for the careful and responsible discharge of its purposes, functions, and duties. Said data shall be reported annually to the board of higher education according to a schedule determined by said board in consultation with the board of trustees. The board of trustees shall also submit an annual institutional spending plan to the council for review, comment, and transmittal to the secretary for administration and finance and the house and senate committees on ways and means and the joint committee on education, arts and humanities.

#### **Special Mission Campuses**

SECTION 63. Said section 22, as so appearing, is hereby amended by striking out, in lines 56 and 57 the words “, initially, by January first, nineteen hundred and ninety-three and every two years thereafter” and inserting in place thereof the following words:- annually to the board of higher education according to a schedule determined by said board in consultation with the board of trustees. (p) The board of trustees of institutions with the potential to expand their mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a five-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Such plans shall include, but not be limited to, budget and enrollment projections for each year, projections for total student charges for each year, projections for in-state and out-of-state enrollments for each year, and plans to insure continuing access to the institution by residents of the Commonwealth, and affirmative action policies and programs that affirm the need for and a commitment to maintaining and increasing access for economically disadvantaged and minority students.

#### **Fees for Higher Education Record Keeping**

SECTION 64. Said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 40 the following new section:-

Section 41. The board of higher education may establish fees to be charged to independent institutions of higher education which seek approval of articles of organization, articles of amendment, or foreign corporation certificates pursuant to sections 30, 30A, 31, and 31A of chapter 69 and which transfer records to the board of higher education pursuant to section 31B of said chapter. The revenue received from the collection of said fees shall be retained by the board of higher education in a revolving trust fund or funds and shall be expended solely for carrying out the provisions of said sections. Fees shall not be greater than the costs incurred by the board of higher education in implementing said sections. The board of higher education shall report annually to the house and senate committee on ways and means the amount of funds collected by such fees and any expenditures made from such funds.

#### **EOEA Reorg 5**

SECTION 65. Chapter 16 is hereby amended by striking out section 19, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 19. The department may dispose of solid wastes, from whatever source, in any manner and at any site which is determined by the department to meet the siting criteria established under section 150A ½ of chapter 111. The department may purchase, lease, acquire, receive by gift, or take by eminent domain under chapter 79 any land, structures, facilities and easements necessary for solid waste disposal. As used in this section, the term solid waste disposal shall include storage or treatment of residual waste. To carry out the provisions of this section, the department may contract with any person, firm, corporation, or body politic to plan, design, manage, construct, maintain or operate solid waste disposal facilities and to otherwise implement this section, and may accept any gifts or grants of money or property, whether real or personal, from any source, including but not limited to the United States or its agencies relative to the disposal of solid waste. The department may contract with users, public and private, including agencies of the commonwealth and its political subdivisions, to dispose of solid waste. The department may lease any land acquired under this section for solid waste disposal to any person, firm or corporation for the purpose of constructing, operating and maintaining a privately owned solid waste processing disposal facility or related facility, including facilities related to the processing, marketing or manufacture of materials recovered from solid waste. The department, on a continuing basis, shall review and make recommendations on the manner of operation and adequacy from an environmental quality standpoint of any solid waste disposal facility planned, established or operated under section 18 to 24, inclusive, by the secretary, and subject to appropriation such recommendations shall be implemented by the secretary. Any land acquired under this section may be disposed of by the commonwealth pursuant to chapter 7 upon termination of a solid waste disposal facility or completion of use of a site, with the concurrence of the department in the best interests of the commonwealth and for a use compatible with local zoning by-laws or ordinances; provided, however, that in no event shall such land be so disposed of unless a written offer is made to the city or town wherein such land lies for an amount of money not less than the principal amount remaining to be paid on bonds issued to meet the capital outlay expenditures relative to such land and such offer is not accepted within 2 months after being made or is refused by the mayor of the city or the board of selectmen of the town wherein such land lies.

The department shall not exercise its eminent domain authority as authorized herein with respect to sites for residual waste treatment, processing or disposal until all permits, licenses and approvals of the city or town wherein the site lies have been granted, a siting agreement has been established pursuant to sections 12 and 13 of chapter 21D, and the approval of said exercise of eminent domain authority has been obtained by a majority vote of the city council, board of aldermen, or board of selectmen of said city or town.

#### **Solid Waste Disposal Fund Repeal**

SECTION 66. Section 23 of chapter 16 of the General Laws is hereby repealed.

### **Insurers Information –Sharing with Departments**

SECTION 67. Section 5G of chapter 18 of the General Laws, as most recently amended by section 10 of chapter 177 of the acts of 2001, is hereby further amended by inserting at the end thereof the following sentence:— Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, all insurers doing business in the commonwealth, shall provide information requested by the department of transitional assistance and the division of medical assistance for use by said agencies for the purpose of recovering public assistance benefits under this section and section 22 of chapter 118E.

### **Domestic Violence Training Fees**

SECTION 68. Chapter 18B of the General Laws is hereby amended by inserting after section 4 the following new section:-

Section 4A. The department may charge fees for training services that it provides to persons or entities outside the department. In establishing a schedule of fees, the department may take into consideration the ability of the persons or entities requesting training services to pay.

### **Health and Human Services Reorganization 3**

SECTION 69. Section 1 of chapter 19A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The secretary shall administer chapter 118E relative to medical care and assistance to eligible persons aged 65 and older. The secretary shall be responsible for administering and coordinating a comprehensive system of long-term care benefits and services for elderly persons, including institutional, home-based and community-based care and services.

### **Health and Human Services Reorganization 4**

SECTION 70. Said chapter 19A is hereby further amended by striking out section 4B, as so appearing, and inserting in place thereof the following section:-

Section 4B. The department shall manage the home care program established in section 4 with respect to clinical screening, service authorization activities and case management for Medicaid community-based long-term care made available to eligible elderly persons pursuant to chapter 118E and the regulations promulgated thereunder; provided, however, that the programs and activities authorized by this section shall be administered and coordinated in accordance with the single state agency requirement under 42 CFR Part 431 and other applicable requirements of Title XIX of the Social Security Act, or its successor title. The primary goal of the coordinated system of care shall be to assist elders in maintaining their residences in the community consistent with their clinical and psychosocial needs in the most cost-effective manner possible. As used in this section, the word "Medicaid" shall mean medical care and assistance provided to eligible persons pursuant to said chapter 118E and said Title XIX or its successor title, the term "executive office" shall mean the executive office of health and human services and the term "community long-term care" shall mean those Medicaid services determined by the department.

The coordinated system of care shall be administered by agencies under contract with the department that shall be known as aging services access points, hereinafter referred to as ASAPs. ASAPs shall be designated by the department and may be operated nonprofit agencies, home care providers as defined in clause (c) of the third paragraph of section 4, a combination of home care corporations acting jointly or by state agencies. Pursuant to the terms of those contracts, ASAPs shall coordinate services on behalf of Medicaid eligible elders; provided, however, that the department shall maintain exclusive responsibility for determining the financial or categorical eligibility of elders for Medicaid and the secretary shall establish rates and methods of payment for Medicaid services delivered pursuant to this section. Administrative payments to ASAPs for Medicaid-funded functions including, but not limited to, screenings, assessments, case management and coordination of care shall be established by the department. Administrative payments for home care-funded services under said section 4 shall be established by the department. The department may develop a capitation system of payment for services in which ASAPs shall be at financial risk for any Medicaid services authorized and purchased on behalf of an eligible person that exceed the amount of said capitation payments.

The department shall establish performance and outcome goals for Medicaid and home care-related functions of ASAPs and may establish such goals for any other responsibilities contracted to ASAPs for managing the coordinated system. Continuation of the contracts authorized by this section shall be dependent on the achievement of the Medicaid-related performance and outcome goals, as determined by the department.

ASAPs shall be responsible for: (1) providing information and referral services to elders; provided, however, that referrals for terminally ill elders shall include referrals to licensed and certified hospices for determination of eligibility, appropriateness and consumer interest in services; (2) conducting intake, comprehensive needs assessments, preadmission screening and clinical eligibility determinations for elders seeking institutional and community care services from Medicaid or the home care program, which in the case of hospice clients, shall adhere to Medicare and Medicaid conditions of participation pursuant to 42 C.F.R. 418 and 114.3 C.M.R. 43.00; (3) developing a comprehensive service plan based on the needs of an elder, provided, however, that a medical plan of care for an elder shall be developed by a licensed or certified health care provider; (4) arranging, coordinating, authorizing and purchasing community long-term care services called for in the comprehensive service plan; and (5) monitoring the outcomes of and making periodic adjustments to a service plan in consultation with service and health care providers. The establishment of a comprehensive service plan for an elder shall not establish an entitlement to services for that eligible person for services beyond that established by law or beyond the amounts appropriated therefor.

ASAP responsibilities for Medicaid-related functions shall be those established by the department. When renewing the annual terms of a contract the subsequent fiscal year, the department shall seek to promote continuity in the the coordinated system of care consistent with this section; provided, however, that substantive changes to the terms and conditions of an annual agreement, including changes to the functional responsibilities of ASAPs as defined in this section, shall be negotiated after the department's written findings that such changes are necessary as a result of changes in federally reimbursable services, rates of federal reimbursement rates or state fiscal demands or that the division is prepared to implement a more comprehensive, cost-effective and coordinated system of long-term care than that established in this section. The written finding required by this paragraph shall be submitted to the executive office, the secretary of administration and finance and the legislature's joint committee on human services and elderly affairs.

ASAPs shall not provide direct services except for case management; information and referral, and protective services as defined in regulations of the home care program established pursuant to 651 C.M.R. 3.00 et seq. and nutrition services established pursuant to 651 CMR 4.00 et seq. and the Older Americans Act, as amended, 42 U.S.C. 3021 et seq.). Except for the direct services provided by ASAPs pursuant to

this section, no ASAP shall have a direct or indirect financial ownership interest in an entity that provides institutional or community long-term care services on a compensated basis. The department may grant a waiver of the restrictions in this paragraph upon a finding that public necessity and convenience require such a waiver.

Overall management, administration and oversight activities related to the screening and authorization of community long-term care services and related case management services shall be the responsibility of the department. The department shall actively explore with interested parties programmatic options that would decrease the reliance of nursing facilities on Medicaid funding and shall promote increased residential and community long-term care program options for elders needing long-term care services. The department shall also explore future coordinated systems of service delivery options as identified in the coordinated aging, rehabilitation and disability services project.

#### **EOEA Reorg 6**

SECTION 71. Sections 13, 14, 15, 16, 17 and 18 of chapter 20 of the General Laws are hereby repealed.

#### **EOEA Reorg 7**

SECTION 72. Sections 20 and 21 of chapter 20 of the General Laws are hereby repealed.

#### **EOEA Reorg 8**

SECTION 73. Chapter 20 of the General Laws is hereby amended by adding the following 4 sections:-

Section 23. The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of agricultural preservation restrictions as defined in section 31 of chapter 184, for land actively devoted to agricultural or horticultural uses as defined in sections 1 to 5, inclusive, of chapter 61A. The commissioner of agricultural resources may from funds appropriated to carry out the provisions of this section, or received from other sources, pay any agricultural land owner for a project submitted by a city or town and approved by the agricultural lands preservation committee established by section 24 such amount as is determined by the agricultural lands preservation committee to be equitable in consideration of anticipated benefits from such project but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for agricultural purposes pursuant to this section. Title to agricultural preservation restrictions shall be held in the name of the commonwealth; provided, however, that a city or town in which such land is located which provides assistance satisfactory to the agricultural lands preservation committee, including but not limited to providing of funds or portions thereof toward the purchase of such restriction, the providing of legal services and the enforcement of the preservation restriction, shall hold title to such land jointly with the commonwealth. Projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter, or in a town, by the board of selectmen or its delegated agency. The commissioner, subject to the approval of the secretary, shall establish procedures for management of such program.

Notwithstanding any general or special law to the contrary, the department of agricultural resources, with the approval of the co-holder, if any, in its sole discretion, may grant to any owner of land subject to an agricultural preservation restriction held by the commonwealth a nonassignable special permit allowing nonagricultural activities to occur on the agricultural preservation restriction land, provided: (a) the land is being actively utilized for full-time commercial agriculture; (b) the permit is for a maximum of 5 years duration, which may, at the discretion of the department, be renewed; and (c) the agricultural lands preservation committee finds that the grant of a special permit will not defeat or derogate from the intent and purposes of retaining the land for agricultural use and preserving the natural agricultural resources of the commonwealth and that the agricultural preservation restriction owner meets all requirements pertaining to special permits contained in the agricultural preservation restriction agreement form presently utilized by the commonwealth at the time of application for the special permit.

Section 24. There is hereby created an agricultural lands preservation committee in the department of agricultural resources, the members of which shall be the commissioner of agricultural resources, who shall be chairman, the secretary of environmental affairs, the director of housing and community development, the director of the office of state planning, the chairman of the board of agricultural resources or their respective designees, and 4 members appointed by the governor, 2 of whom shall be owners and operators of farms within the commonwealth. Members appointed by the governor shall receive \$50 for each day or portion thereof spent in discharge of their official duties not to exceed \$600 annually and shall be reimbursed for the necessary expenses incurred. The dean of the college of food and natural resources of the University of Massachusetts and the state conservationist of the United States Department of Agriculture Soil Conservation Service, or their respective designees, shall serve as nonvoting members. The committee shall evaluate and accept or reject projects submitted by cities and towns. In so evaluating, the committee shall consider at a minimum the following:

- (1) the suitability of land as to soil classification and other criteria for agricultural use;
- (2) the fair market value of such land and the fair market value of such land when used for agricultural purposes as determined by independent appraisals; and
- (3) the degree to which the acquisition would serve to preserve the agricultural potential of the commonwealth.

The commissioner of agricultural resources may establish such rules and regulations as may be deemed necessary to carry out the purposes of this section.

Each member of the committee appointed by the governor shall be appointed for a term of 4 years, and until his successor is qualified. Of the first such members appointed, 1 shall serve for a term of 1 year; 1 shall serve for a term of 2 years; 1 shall serve for a term of 3 years; 1 shall serve for a term of 4 years. A person appointed to fill a vacancy shall serve for the unexpired term of such vacancy. Any member may be eligible for reappointment.

Section 25. The agricultural lands preservation committee shall prepare an annual report. The report shall include the number and geographic distribution of applications accepted and rejected, the acreage and costs of purchases, and such other information as will enable the program to be evaluated.

Section 26. Land under agricultural preservation restrictions, while actively devoted to agricultural, horticultural or agricultural and horticultural use as defined in sections 1 to 5, inclusive, of chapter 61A, shall be assessed for general property tax purposes at values no greater than those determined by the methods and provisions of section 10 of said chapter 61A.

#### **EOEA Reorg 9**

SECTION 74. Section 1 of chapter 21 of the General Laws, as appearing in the 2000 Official Edition is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The department of conservation and recreation shall consist of a division of forests and parks, a division of fisheries and wildlife, a division of marine fisheries and a division of water supply protection. Each division shall be under the administrative supervision of a director.

#### **EOEA Reorg 10**

SECTION 75. Said chapter 21 is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. The department shall be under the control of a stewardship council, which council shall consist of 15 members appointed by the governor for terms of 7 years. Seven members shall be from the board of parks and recreation created in section 2A of chapter 21, 7 members shall be from the board of fisheries and wildlife created in section 7 of chapter 21, and the fifteenth member shall be the commissioner of conservation and recreation. Upon the expiration of the terms of the current members of the board, all additional appointments by the governor, except those made to fill a vacancy in an unexpired term, shall be for terms of 7 years. No council member may remain on the council after the expiration of their terms on the boards of parks and recreation or fisheries and wildlife.

#### **EOEA Reorg 11**

SECTION 76. Section 2A of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in place thereof the following words:- board of parks and recreation.

#### **EOEA Reorg 12**

SECTION 77. Said section 2A of said chapter 21, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "except as hereinafter provided no more than one such member shall be appointed from the same county" and inserting in place thereof the following words:- 3 members shall come from the metropolitan parks district defined in section 33 of chapter 92.

#### **EOEA Reorg 13**

SECTION 78. Said section 2A of said chapter 21, as so appearing, is hereby further amended by inserting after the word "Club," in line 9, the following words:- the Trust for Public Land,.

#### **EOEA Reorg 14**

SECTION 79. Section 2B of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, and in lines 20 and 21, the words "board of environmental management" and inserting in place thereof, in each instance, the following words:- board of parks and recreation.

#### **EOEA Reorg 15**

SECTION 80. Said section 2B of said chapter 21, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words "department of environmental management" and inserting in place thereof the following words:- department of conservation and recreation.

#### **EOEA Reorg 16**

SECTION 81. Section 2B of said chapter 21, as so appearing, is hereby amended by striking out the last paragraph.

#### **EOEA Reorg 17**

SECTION 82. Section 2C of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, and in lines 9 and 10, the words "board of environmental management" and inserting in place thereof, in each instance, the following words:- stewardship council.

#### **EOEA Reorg 18**

SECTION 83. Said section 2C of said chapter 21, as so appearing, is hereby amended by striking out, in line 5, the word "three" and inserting in place thereof the following figure:- 7.

#### **EOEA Reorg 19**

SECTION 84. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 5, 7 and 14, the word "board" and inserting in place thereof, in each instance, the following words:- stewardship council.

#### **EOEA Reorg 20**

SECTION 85. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out the last paragraph.

#### **EOEA Reorg 21**

SECTION 86. Section 2D of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in place thereof the following words:- stewardship council.

#### **EOEA Reorg 22**

SECTION 87. Section 2E of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in place thereof the following:- board of parks and recreation; by .

#### **EOEA Reorg 23**

SECTION 88. Section 2F of said chapter 21, as so appearing, is hereby amended by inserting after the word "board", in line 2, the following words:- of parks and recreation.

#### **EOEA Reorg 24**

SECTION 89. Said chapter 21 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. The commissioner of conservation and recreation shall be the executive and administrative officer of the department, and he shall exercise supervision, direction and control over all the divisions of the department in accordance with such programs and policies as may from time to time be promulgated by the stewardship council. The commissioner shall be responsible for administering all laws vested in the department by the general or special laws. The commissioner shall appoint and remove the directors of the division of forests and parks, the division of fisheries and wildlife, the division of marine fisheries, and the division of water supply protection with the approval of the stewardship council. The commissioner shall appoint and remove the directors of other divisions, bureaus or offices which he may establish as he deems appropriate for the efficient management and centralized administration of the department. The directors shall be qualified by training, experience and executive ability to administer the duties of their respective offices, and shall not be subject to chapter 31. The commissioner may also appoint and remove a professional geologist, who shall be the state geologist and who shall not be subject to chapter 31 or section 9A of chapter 30.

#### **EOEA Reorg 25**

SECTION 90. Section 3A of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in place thereof the following words:- stewardship council.

#### **EOEA Reorg 26**

SECTION 91. Section 3B of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ", with the approval of the board of environmental management".

#### **EOEA Reorg 27**

SECTION 92. Section 3C of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, and in line 7, the words "board of environmental management" and inserting in place thereof, in each instance, the following words:- stewardship council.

#### **EOEA Reorg 28**

SECTION 93. Section 3D of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ", with the approval of the board of environmental management".

#### **EOEA Reorg 29**

SECTION 94. Section 4 of said chapter 21, as so appearing, is hereby amended by striking out the second sentence.

#### **EOEA Reorg 30**

SECTION 95. Section 4A of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "The director of the division of forests and parks, with the approval of the commissioner" and inserting in place thereof the following words:- The commissioner of conservation and recreation.

#### **EOEA Reorg 31**

SECTION 96. Said section 4A of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 10, 12 and 15, the word "director" and inserting in place thereof, in each instance, the following word:- commissioner.

#### **EOEA Reorg 32**

SECTION 97. Said section 4A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 24, the word "division" and inserting in place thereof the following word:- office.

#### **EOEA Reorg 33**

SECTION 98. Section 4D of said chapter 21, as so appearing, is hereby amended by inserting after the word "of", in line 1, the following word:- forest.



#### **EOEA Reorg 34**

SECTION 99. Section 4G of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words ", with the approval of the commissioner;"

#### **EOEA Reorg 35**

SECTION 100. Section 5 of said chapter 21, as so appearing, is hereby amended by inserting after the word "fisheries.", in line 5, the following words:- The director of the division of marine fisheries shall be appointed and may be removed by the commissioner of the department of conservation and recreation with the approval of the marine fisheries advisory commission.

#### **EOEA Reorg 36**

SECTION 101. Sections 6, 6A, 6B, 6C, 6D, 6E, 6F, 6F½ and 6I of chapter 21 of the General Laws are hereby repealed.

#### **EOEA Reorg 37**

SECTION 102. Section 7B of chapter 21 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "sickness", in line 12, the following words:- supported by the certificate of a physician.

#### **EOEA Reorg 38**

SECTION 103. Said section 7B of said chapter 21, as so appearing, is hereby further amended and by adding the following paragraph:-  
Prior to removal for absences, however, the chairperson of the board of parks and recreation shall certify the unexcused absence of the board member from 3 consecutive meetings by filing a certificate to that effect with the commissioner of the department of conservation and recreation and the secretary of the commonwealth. Upon the filing of such certificates, such a member's position shall be deemed vacant and the governor shall appoint a successor. In case of the resignation, removal or death of a board member, the member's successor shall be appointed to fill the remainder of the unexpired term subject to the same terms and conditions as the member.

#### **EOEA Reorg 39**

SECTION 104. Section 8 of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "water resources" and inserting in place thereof the following words:- water supply protection.

#### **EOEA Reorg 40**

SECTION 105. Said section 8 of said chapter 21, as so appearing, is hereby further amended by striking out, in line 3, the words "of the department of environmental management" and inserting in place thereof the following words:- department of conservation and recreation.

#### **EOEA Reorg 41**

SECTION 106. Section 9A of said chapter 21, as so appearing, is hereby amended by striking, in line 9, the words "the governor,".

#### **EOEA Reorg 42**

SECTION 107. Said Chapter 21 of the General Laws is hereby amended by inserting after section 11 the following section:-  
Section 11A. The division shall administer and maintain a riverways program that shall provide, in addition to other services, technical assistance to cities, towns and citizens groups regarding protection and restoration of the ecological integrity of rivers, streams and riparian lands and promotion of public access to such rivers, streams and riparian lands.

#### **EOEA Reorg 43**

SECTION 108. Section 14 of said chapter 21, as so appearing, is hereby amended by striking out, in line 23, the words "environmental management" and inserting in place thereof the following:- conservation and recreation.

#### **EOEA Reorg 44**

SECTION 109. Said section 14 of said chapter 21, as so appearing, is hereby amended by striking out the second and third paragraphs.

#### **EOEA Reorg 45**

SECTION 110. Section 17A of said chapter 21, as so appearing, is hereby amended by striking out, in line 4, the word "division" and inserting in place thereof the following word:- office.

#### **EOEA Reorg 46**

SECTION 111. Said section 17A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 36, the words "Public Access Fund" and inserting in place thereof the following words:- General Fund.

#### **EOEA Reorg 47**

SECTION 112. Said section 17A of said chapter 21, as so appearing, is hereby further amended and by striking out, in line 37, the words "from the Public Access Fund".

#### **EOEA Reorg 48**

SECTION 113. Section 17B of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "board of environmental management" and inserting in place thereof the following words:- stewardship council.

#### **Public Access Fund Repeal**

SECTION 114. Section 17F of said chapter 21 is hereby repealed.

#### **EOEA Reorg 49**

SECTION 115. Section 19 of said chapter 21, as so appearing, is hereby amended by striking out, in line 7, the words "fisheries, wildlife and recreational vehicles" and inserting in place thereof the following words:- the director of the division of fisheries and wildlife.

#### **EOEA Reorg 50**

SECTION 116. Section 26A of said chapter 21, as so appearing, is hereby amended by striking out, in lines 47 and 48, the words "metropolitan district commission".

#### **EOEA Reorg 51**

SECTION 117. Said chapter 21 is hereby further amended by adding the following 5 sections:-

Section 59. (a) The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of watershed preservation restrictions, as defined in section 31 of chapter 184, for land classified as watershed land as defined in regulations to be promulgated by the department of conservation and recreation.

(b) The commissioner of the department of conservation and recreation, the "commissioner", may from funds appropriated to carry out the provisions of this section, or received from other sources, pay the owner of watershed lands which he determines to be beneficial to the maintenance of the water supply of the commonwealth an amount determined to be equitable but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for watershed purposes pursuant to this section. Title to such watershed preservation restrictions shall be held in the name of the commonwealth; provided, however, that a city or town in which such land is located, which provides assistance satisfactory to the commissioner, including but not limited to providing of funds or portions thereof toward the purchase of such restriction, the providing of legal services and the enforcement of the preservation restriction, shall hold title to such restrictions jointly with the commonwealth.

(c) Watershed preservation restriction projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter, or in a town, by the board of selectmen or its delegated agency. The commissioner, subject to the approval of the secretary of environmental affairs, shall establish procedures for the management of such programs.

Section 60. There is hereby created a watershed lands preservation committee in the department of conservation and recreation, the members of which shall be the commissioner of conservation and recreation, the secretary of environmental affairs, the director of the Massachusetts Water Resources Authority, the director of the division of water supply in the department of environmental protection, 1 member appointed by the speaker of the house, 1 member appointed by the president of the senate, and 2 members appointed by the governor, 1 of whom shall represent an organization dedicated to conservation of natural resources and 1 of whom shall have expertise in the field of hydrology. The committee shall advise the commissioner of the department of conservation and recreation on the evaluation of projects and shall advise the commissioner on any rules or regulations necessary to carry out the intent of the watershed preservation restriction program.

Section 61. The commissioner of conservation and recreation shall prepare an annual report on the watershed preservation restriction program. The report shall include the number and geographic distribution of applicants accepted and rejected, the acreage and cost of purchase and such other information as will enable evaluation of the program.

Section 62. Land under watershed preservation restriction, while remaining under such restriction, shall be assessed for general tax purposes, to reflect the diminution of land value which may be caused by such watershed preservation restriction.

Section 63. Whenever the department deems it necessary to make surveys, soundings, drillings or examinations to obtain information for or to expedite the construction of its watershed system, parks, recreational facilities or other projects under its jurisdiction, the department, its authorized agents or employees, may, after due notice by registered or certified mail, enter upon any lands, waters and premises in the commonwealth for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of this section, and such entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may then be pending. The department shall make reimbursement for any injury or actual damage resulting to such lands, waters and premises caused by any act of its authorized agents or employees and shall, so far as possible, restore such lands to the same condition as prior to the making of such surveys, soundings, drillings or examinations.

#### **EOEA Reorg 52**

SECTION 118. Section 7 of said chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 22 to 24, inclusive, the words "commissioner of environmental protection; the commissioner of fisheries, wildlife and environmental law enforcement, and the other."

**EOEA Reorg 53**

SECTION 119. Section 7A of said chapter 21A of the General Laws is hereby repealed.

**EOEA Reorg 54**

SECTION 120. Section 8 of said chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 13, the words "the division of outdoor advertising, the outdoor advertising board,".

**EOEA Reorg 55**

SECTION 121. Said section 8 of said chapter 21A, as so appearing, in, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The department of conservation and recreation shall include a division of forests and parks, a division of fisheries and wildlife, a division of marine fisheries, a division of water supply protection and a public access board.

**EOEA Reorg 56**

SECTION 122. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 48 to 50, inclusive, the words "food and agriculture shall include the department of food and agriculture, the board of food and agriculture, the pesticide board, the state reclamation board," and inserting in place thereof the following words:- agricultural resources,.

**EOEA Reorg 57**

SECTION 123. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the sixth and seventh paragraphs.

**EOEA Reorg 58**

SECTION 124. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 90 and 92, the word "commissioner" and inserting in place thereof, in each instance, the following words:- director.

**EOEA Reorg 59**

SECTION 125. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the tenth paragraph.

**EOEA Reorg 60**

SECTION 126. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 76 and 77, the words "department of fisheries, wildlife and environmental law enforcement" and inserting in place thereof the following words:- division of fisheries and wildlife.

**EOEA Reorg 61**

SECTION 127. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word "include", in line 102, the following words:- the office of law enforcement.

**EOEA Reorg 62**

SECTION 128. Section 8A of said chapter 21A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "department of environmental management, the commissioner of the metropolitan district commission," and inserting in place thereof the following words:- department of conservation and recreation.

**EOEA Reorg 63**

SECTION 129. Said section 8A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 11 and 13, the word "six" and inserting in place thereof the following figure:- 5.

**EOEA Reorg 64**

SECTION 130. Section 10 of chapter 21A of the General Laws is hereby repealed.

**EOEA Reorg 65**

SECTION 131. Chapter 21A of the General Laws is hereby amended by inserting after section 10, as appearing in the 2000 Official Edition, the following 8 sections:-

Section 10A. The office of law enforcement shall be in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of law enforcement. The director shall be qualified by training, experience and executive ability and shall not be subject to chapter 31. The secretary shall appoint the director and may remove him. The director

shall appoint and may remove with the approval of the secretary such deputy directors of enforcement and chiefs of enforcement as may be necessary to carry out the duties of the office; provided, however, that the chief of enforcement of the boating and recreation vehicle safety enforcement bureau shall be appointed and may be removed by the director with the approval of the boating and recreational vehicle safety advisory board established pursuant to section 11 of chapter 21A. Such positions shall not be subject to chapter 31. The deputy directors of enforcement, assisted by law enforcement coordinators, shall perform such enforcement and administrative duties as assigned by the director.

The director may with the approval of the secretary designate employees of the commonwealth and the United States as deputy environmental police officers.

The director may promulgate rules and regulations necessary for implementation of sections 10A to 10H, inclusive, provided, however, that no rule or regulation promulgated under this section shall take effect before the thirtieth day next following the date on which a copy of such rule or regulation has been filed with the joint committee on natural resources and agriculture.

Section 10B. It shall be the duty of the office of law enforcement to enforce all penal laws which it is the duty of any agency within the executive office of environmental affairs to enforce, provisions of the general laws or any special laws to the contrary notwithstanding.

Nothing in this section shall be construed as divesting other officers or employees of the commonwealth of the duty to enforce laws as provided for in the general laws or any special laws. It shall also direct all inspections, claims and investigations. All police agencies shall at once notify the office of law enforcement or an environmental police officer thereof of a person presumed to be lost in any of the woodlands of the commonwealth.

Section 10C. The secretary, undersecretary, director, deputy directors of enforcement, chiefs of enforcement and all deputy chiefs of enforcement, law enforcement coordinators, and the wardens, as defined in section 1 of chapter 131, and all environmental police officers and deputy environmental police officers shall have and exercise throughout the commonwealth, subject to such rules and regulations as the director, with the approval of the secretary, may from time to time adopt, all the authority of police officers and constables, except the service of civil process. Such rules and regulations shall be filed with the state secretary in accordance with section 37 of chapter 30. The director may authorize in writing any such deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, and any environmental police officer to have in their possession and carry a firearm, revolver, club, billy, handcuffs, twisters, or any other weapon or article required in the performance of official duty.

Section 10D. Each deputy director of enforcement, chief of enforcement, deputy chief of enforcement, warden, environmental police officer or deputy environmental police officer, when on duty and in uniform shall wear on his outer clothing or otherwise display a metallic badge bearing the seal of the commonwealth and appropriate words to identify his position, together with a number to be assigned by the director.

The director may, with the approval of the secretary, prescribe by rules and regulations a standard form of uniform to be worn by such personnel. Such badge or uniform or any distinctive part thereof so prescribed shall be worn only by such personnel entitled thereto under the rules and regulations.

Whoever violates this section by wearing such badge or uniform without authority or by impersonating an officer authorized to wear such badge or uniform shall be punished by a fine of not less than \$10 or more than \$100 dollars.

Section 10E. The secretary, director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers, may in the performance of their duties enter upon and pass through or over private property or lands whether or not covered by water, and may keep or dispose of sick, dead, injured, or helpless fish, birds or mammals that may come into their possession, subject to such rules and regulations as the director, with the approval of the secretary, may adopt.

Section 10F. Notwithstanding chapter 149 or of any other general or special law to the contrary, the director, with the approval of the secretary, shall make rules and regulations governing the tours of duty and hours of work for the deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and environmental police officers. The rules and regulations shall provide, in the case of boat based personnel, that such officers may be required to be on duty up to 96 consecutive hours, and off duty a similar number of hours, for each tour of duty. Land based personnel, however, shall be compensated for any additional work in accordance with section 30C of chapter 149. Boat personnel shall be paid 4 dollars and 50 cents in lieu of meals allowances for each day of duty and shall be deemed to be on full travel status. Such rules and regulations shall also provide for the assignment of all officers of the division to any area within the commonwealth and for the conduct of such officers in the performance of their duties.

Section 10G. If the director, his assistant or any environmental police officer, deputy environmental police officer, members of the state police, local police, local town law enforcement officials in shellfish beds over which they have jurisdiction, or harbor masters acting pursuant to authority arising under chapter 90B, employed to enforce the sections contained in section 10H determines that a violation thereof has occurred or is occurring, he may request the offender state his name and address.

Whoever, upon such request, refuses to state his name and address may be arrested without a warrant, or if he states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than \$200 dollars. Such officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than 21 days after the date of such violation.

Six copies of such notice shall be made and each shall contain the name and address of the offender and, if served with the notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle or motorboat involved, if any; the number of the license, certificate of permit, if any, issued pursuant to chapter 130 or chapter 131 which is relevant to the violation; the specific offense or offenses charged and the time and place of the violation; and the time and place for his required appearance. The notice shall be signed by the officer, and shall be signed by the offender in acknowledgment that the notice has been received. The officer shall deliver to the offender at the time and place of the violation a copy of the notice. At or before the completion of each tour of duty the officer shall forward to his commanding officer copies of each notice of such violation that he has issued during such tour. The commanding officer shall promptly mail 1 copy of each notice to the director and shall retain and safely preserve 1 copy. Before the end of his tour of duty such issuing officer shall forward to the respective court before whom the offender has been notified to appear the court copy of each notice of such violation that he has issued during such tour. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing; or may mail to such clerk, with the citation, the fine provided on the citation, provided that it is the first offense for such violation within 2 calendar years.

At the time of such appearance the person shall provide the clerk with the notice issued by said officer and shall pay to the clerk the fine as provided in section 10H, such payment to be made only by cash, postal note, money order or certified check. Payment of the fine shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal and a person notified to appear before the clerk of a district court shall not be required to report to any probation officer, and no record of the case shall be entered in the probation records. If at any time the court finds that the interests of justice so require, it may cause a warrant to be issued as provided in section 32 of chapter 218.

If any person notified to appear before the clerk of the district court fails to so appear and pay the fine provided under this section or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with a summons issued upon such complaint, the clerk shall send to such person by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest.

The director, his assistants, any environmental police officers, deputy environmental police officers, members of the state police, local police and shellfish constables in areas of their respective jurisdiction empowered to enforce section 10H may seize any fish, birds, or mammals unlawfully taken or held which shall be forfeited to the commonwealth and disposed of by the director for the best interests of the commonwealth.

The secretary shall adopt rules and regulations consistent with this chapter and shall file the regulations in accordance with section 37 of chapter 30.

All fines, penalties and forfeitures in actions under this section or section 10H shall be paid to the general fund of the city or town in which the violation occurred; provided, however, that if the complaining officer is receiving compensation from the commonwealth, such fines, penalties and forfeitures shall be paid to the commonwealth; and provided, further, that if the complaining officer is an environmental police officer or deputy environmental police officer, such fines, penalties and forfeitures shall be retained by the division of law enforcement; and provided, further, that if the complaining officer is a chief park ranger or park ranger, such fines, penalties or forfeitures, in addition to those imposed pursuant to section 16 of chapter 270, shall be forwarded to the department of conservation and recreation to be deposited as revenue and shall be applicable to the department's retained revenue account. At the end of each fiscal year, the office of law enforcement shall pay the Inland Fish and Game Fund an amount equivalent to the sum of all fines, penalties and forfeitures received by the office of law enforcement during such fiscal year for violations of chapter 131 or the regulations promulgated under this chapter.

The director shall issue books of non-criminal citation forms to the enforcement personnel authorized under this section. The director may charge a reasonable fee for such citation forms in accordance with section 3B of chapter 7.

Section 10H. A person notified to appear before the clerk of a district court as provided in section 10G for a violation of section 4A of chapter 21, the regulations promulgated pursuant to section 17A of said chapter 21, the regulations promulgated pursuant to chapter 90B, or the rules and regulations of the division of fisheries and wildlife regulating activity on land under the management of such division, may so appear within the time specified and pay a fine of \$50 dollars.

A person notified to appear before the clerk of a district court as provided in section 10G for a violation of section two, three, four, five, five A, six, seven, subsection (b) of section nine, section twelve, twelve A or thirteen A of chapter ninety B may so appear within the time specified and pay a fine of \$50 dollars.

A person notified to appear before the clerk of a district court as provided in section 10G for violation of subsections (b), (c) and (e) of section 8 of said chapter 90B may so appear within the time specified and pay a fine of \$100.

A person notified to appear before the clerk of a district court as provided in said section 10G for violation of section seventeen A, thirty-three, thirty-four, thirty-six, thirty-nine, forty, fifty-one, sixty-nine, seventy, seventy-one, seventy-two, eighty-one, eighty-two or ninety-five of chapter one hundred and thirty may so appear within the time specified and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in said section 10G for violation of section thirty-five, thirty-seven, thirty-eight, thirty-eight A, forty-one, forty-one A, forty-four, sixty-seven, sixty-eight, eighty, ninety-two, one hundred A or one hundred C of said chapter one hundred and thirty may so appear and pay a fine of \$100.

A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section forty-seven and section seventy-five of chapter one hundred and thirty, or section sixty-five of chapter one hundred and thirty-one, may so appear within the time specified and pay a fine of \$200.

A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section one, five, six, eight, ten, eleven, thirteen, sixteen, nineteen A, twenty-three to twenty-five, inclusive, twenty-six, twenty-seven, twenty-eight, thirty, thirty-two, thirty-three, thirty-six, thirty-eight, forty-four, forty-seven, forty-nine to fifty-four, inclusive, fifty-seven, fifty-nine, sixty-nine, seventy-one, seventy-two, seventy-six, seventy-seven, seventy-nine, eighty or eighty-two of chapter one hundred and thirty-one may so appear and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in said section 10G for violations of section fifty-eight, sixty-six, sixty-seven, seventy, seventy-five A or eighty A of said chapter one hundred and thirty-one may appear and pay a fine of \$100.

#### **EOEA Reorg 66**

SECTION 132. Section 11 of chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 1, the word "division" and inserting in place thereof the following:- office.

#### **EOEA Reorg 67**

SECTION 133. Section 11A of said chapter 21A, as so appearing, is hereby amended by striking out, in line 7, the words "the commissioner of the metropolitan district commission or his designee,".

#### **EOEA Reorg 68**

SECTION 134. Said chapter 21A of the General Laws is hereby amended by inserting after section 16, as so appearing, the following 4 sections:-

Section 16A. There shall be an office of administrative appeals in the executive office of environmental affairs. No administrative law judge of the office shall be removed for any reason other than just cause.

Section 16B. The conduct of proceedings before the board shall be governed by the provisions of chapter 30A of the General Laws and, in addition, by the standard rules promulgated pursuant to section 9 of said chapter 30A or by such substitute rules as the office shall promulgate pursuant to section 9 of said chapter 30A.

Section 16C. A recommended final decision issues by one or more of the board's administrative law judges shall become the final decision of the agency, department, board, commission or program whose decision, determination or action was under review unless, within sixty

days following the date of issuance of the recommended final decision, the commissioner or other head of said agency, department, board, commission or program, or a designee, issues a final decision that adopts, rejects or modifies the recommended final decision.

Section 16D. Every decision issued by a commissioner or other head of agency, or a designee, following the issuance of a recommended final decision by an administrative law judge of the board, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws.

#### **EOEA Reorg 69**

SECTION 135. Section 1 of chapter 21D of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 11 and 18, the word “management” and inserting in place thereof the following:- protection.

#### **EOEA Reorg 70**

SECTION 136. Section 3 of said chapter 21D, as so appearing, is hereby amended by striking out, in line 1, the word “management” and inserting in place thereof the following word:- protection.

#### **EOEA Reorg 71**

SECTION 137. Said section 3 of said chapter 21D, as so appearing, is hereby amended by striking out, in lines 60 and 61, the words “the department of environmental protection,”.

#### **EOEA Reorg 72**

SECTION 138. Said section 3 of said chapter 21D, as so appearing, is hereby amended by striking out the last paragraph.

#### **EOEA Reorg 73**

SECTION 139. Section 7 of said chapter 21D, as so appearing, is hereby amended by striking out, in lines 45 and 46, the words “and upon consultation with the department of environmental protection,”.

#### **EOPS Reorg 4**

SECTION 140. The General Laws are hereby amended by inserting after chapter 22E the following chapter:-

##### **CHAPTER 22F**

##### **THE DEPARTMENT OF FORENSIC SCIENCES**

Section 1. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:-

"Commission", the commission on medico-legal investigation, established by section 184 of chapter 6.

"Department", the department of forensic sciences.

"Office", the office of the chief medical examiner.

Section 2. There shall be a department of forensic sciences within the executive office of public safety. The department shall oversee and coordinate all forensic science services performed by the commonwealth and work in conjunction with the attorney general, the district attorneys and state and local law enforcement authorities to improve the availability and timeliness of forensic science services as an effective tool for public safety. The office of the chief medical examiner and the state police laboratory shall be included within the department.

Section 3. There shall be a chief medical examiner in the department of forensic sciences within the executive office of public safety. Costs and expenses of the chief medical examiner and staff shall be paid by the commonwealth.

The chief medical examiner shall be a physician who is a diplomate of the American Board of Pathology in Forensic Pathology, a graduate of an approved fellowship program in forensic medicine, a diplomate of the American Board of Anatomic and Forensic Pathology and licensed to practice medicine in the commonwealth and must reside within the commonwealth within 6 months after his appointment. The chief medical examiner shall be appointed by the governor for a term of 5 years from among a list of not less than 3 nominees recommended by the commission on medico-legal investigation. The governor may request additional nominees from the commission before making the appointment. The chief medical examiner's salary and the salary of the deputy chief medical examiner shall be set by the governor and shall be commensurate with those of similar positions in comparable jurisdictions.

In the case of the death, removal, resignation or permanent incapacity of the chief medical examiner, the governor shall appoint a new chief medical examiner within 6 months.

The chief medical examiner, with the approval of the commission, shall establish a comprehensive system to deliver medico-legal investigative services in the commonwealth. The chief medical examiner shall appoint a deputy chief medical examiner who shall perform all of the duties of the chief medical examiner in case of incapacity or absence. The chief medical examiner may appoint such associate chief medical examiners as necessary.

The chief medical examiner may, subject to the approval of the secretary of public safety, apply for and accept on behalf of the commonwealth any funds, including grants, bequests, gifts or contributions, from any person for the improvement of the system of medico-legal investigative services in the commonwealth. Such funds shall be deposited in a separate account with the state treasurer and received by him on behalf of the commonwealth. All such funds may be expended by the chief medical examiner, in accordance with law.

District medical examiners shall be appointed by the chief medical examiner to conduct appropriate medico-legal investigations within the commonwealth. Such medical examiners shall serve in areas or districts as determined by the chief medical examiner and for terms of office at his discretion. Such medical examiners shall be responsible, under the direction of the chief medical examiner or the deputy medical examiner or an associate chief medical examiner, for the investigation and certification as to the cause of deaths under their jurisdiction. District medical examiners shall be licensed to practice medicine within the commonwealth and shall reside therein. In areas where such individuals are not available, the chief medical examiner or his representative may appoint other appropriately qualified individuals to conduct medico-legal

investigations. Those medical examiners and associate medical examiners who are functioning under prior gubernatorial appointments shall continue to do so for the remainder of their term in their present districts.

The office of the chief medical examiner shall have custody of all files, reports, photographs and other articles generated by all employees or vendors of the office.

The chief medical examiner, with approval of the secretary of the executive office of public safety, shall promulgate rules for the disclosure of autopsy reports, which shall not be deemed to be public records, to those who are legally entitled to receive them. If a medical examiner conducts an autopsy on a body of a deceased person who within 6 months before the date of death received services from a facility or program operated, contracted for, or licensed by the department of mental health, the office of the chief medical examiner shall provide a copy of the autopsy report, upon request, to the commissioner of mental health for the purpose of completing an investigation into the circumstances surrounding the death, if a next of kin does not object thereto. The chief medical examiner, with the approval of said secretary, may establish fees for providing autopsy reports to those who are legally entitled to receive them. Neither the chief medical examiner, nor any employee of the office of the chief medical examiner, shall be subject to civil or criminal liability for lawfully disclosing an autopsy report or any part thereof, pursuant to the rules concerning the disclosure of autopsy reports promulgated under this section, to anyone legally entitled to receive it.

Section 4. (a) As used in this section, the following words shall have the following meanings:--

"Child", any person under the age of 18.

"Fatality", any death of a child.

"Local team", a local multidisciplinary and multi-agency child fatality review team in each of the 11 districts headed by a district attorney. Notwithstanding the provisions of section 172 of chapter 6, members of the local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on said team. Each local team shall be comprised of at least the following members:

- (1) the district attorney of the county, who shall chair each local team;
- (2) the chief medical examiner or his designee;
- (3) the commissioner of the department of social services or his designee;
- (4) a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team;
- (5) a local police officer from the town or city where the child fatality occurred, appointed by the chief of police of said municipality;
- (6) a state law enforcement officer, appointed by the colonel of state police;
- (7) the chief justice of the juvenile division of the trial court or his designee;
- (8) the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center or his designee;
- (9) the commissioner of the department of public health or his designee; and
- (10) any other person with expertise or information relevant to individual cases who may attend meetings on an ad hoc basis, by agreement of the permanent members of each local team. Such persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of the departments of mental retardation, mental health, youth services and education.

"State team", a child fatality review team within the office of the chief medical examiner. Notwithstanding the provisions of section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state police, on behalf of the chief medical examiner. All members shall serve without compensation for their duties associated with membership on said team. The state team shall consist of at least the following members:--

- (1) the chief medical examiner, who shall chair the state team;
- (2) the attorney general or his designee;
- (3) the commissioner of the department of social services or his designee;
- (4) the commissioner of the department of public health or his designee;
- (5) the commissioner of the department of education or his designee;
- (6) a representative of the Massachusetts District Attorney's Association to be selected by said association;
- (7) the colonel of the state police or his designee;
- (8) the commissioner of the department of mental health or his designee;
- (9) the commissioner of the department of mental retardation or his designee;
- (10) the director of the Massachusetts center for sudden infant death syndrome or his designee;
- (11) the commissioner of the department of youth services or his designee;
- (12) a representative of the Massachusetts chapter of the American Academy of Pediatrics, with experience in diagnosing or treating child abuse and neglect to be selected by said chapter;
- (13) a representative from the Massachusetts Hospital Association to be selected by said association;
- (14) the chief justice of the juvenile division of the trial court or his designee;
- (15) the president of the Massachusetts Chiefs of Police Association or his designee;
- (16) a child advocate appointed by a majority vote of the members of the state team; and
- (17) any other person selected by the chair, or by majority vote of the members of the state team, with expertise or information relevant to individual cases.

(b) (1) There shall be established within the office of the chief medical examiner the state child fatality review team. The purpose of the state team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) developing an understanding of the causes and incidence of child death; and
- (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child deaths.

(2) To achieve its purpose, the state team shall:

- (i) develop model investigative and data collection protocols for local child fatality teams;
- (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children;
- (iii) provide training and written materials to the local teams to assist them in carrying out their duties;
- (iv) review reports from local teams;
- (v) study the incidence and causes of child fatalities in the commonwealth;
- (vi) analyze community, public and private agency involvement with the decedents and their families prior to and subsequent to the deaths;
- (vii) develop a protocol for the collection of data regarding child deaths and provide training to local teams on the protocol;

(viii) develop and implement such rules and procedures as are necessary for its own operation; and  
(ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations.

(c)(1) A local child fatality review team shall be established in each of the 11 districts headed by a district attorney. The purpose of each such local team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) coordinating the collection of information on child deaths;
- (ii) promoting cooperation and coordination between agencies responding to child deaths and in providing services to family members;
- (iii) developing an understanding of the causes and incidence of child deaths in the county; and
- (iv) advising the state team on changes in law, policy or practice which may affect child deaths and injuries.

(2) To achieve its purpose, the local team shall:

- (i) review, establish and implement model protocols from the state team;
- (ii) review, subject to the approval of the local district attorney, all individual child deaths in accordance with the established protocol;
- (iii) meet periodically, but at least 4 times per calendar year, to review the status of child death cases and recommend methods of improving coordination of services between member agencies;
- (iv) collect, maintain and provide confidential data as required by the state team; and
- (v) provide law enforcement or other agencies with information for the purposes of the protection of children.

(3) At the request of the local district attorney, the local team shall be immediately provided with:

(i) information and records relevant to the cause of death of a child whose death is being reviewed by the local team, from providers of medical or other care, treatment or services, including dental and mental health care;

(ii) information and records relevant to the cause of death maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records, and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney;

(iii) information and records of any provider of social services, including the state department of social services, to the child or his family, that the local team deems relevant to the review; and

(iv) demographic information relevant to the decedent and his immediate family including, but not limited to, address, age, race, gender and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d)(1) The following provisions shall apply to both the state and local teams:

Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapters 112, 123 or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair. Any information considered to be confidential pursuant to the aforementioned statutes may be submitted for the team's review upon the determination of the chair that the review of said information is necessary. The chair shall ensure that no information submitted for the team's review is disseminated to parties outside the team. Under no circumstances shall any member of this team violate the confidentiality provisions set forth in the aforementioned statutes.

(2) Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose any information relating to the team's business.

(3) Team meetings shall be closed to the public. Any and all information and records acquired by the state team or by a local team, in the exercise of its purpose and duties pursuant to this chapter, shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out the teams' duties and purposes.

(4) Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(5) Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a team meeting.

(6) Information, documents and records of the state team or of a local team shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during proceedings of the team or are maintained by a team.

(e) Nothing in this section shall be construed or interpreted to limit the powers and duties of the chief medical examiner or district attorneys.

Section 5. Any person having knowledge of a death which occurs under the circumstances enumerated in this paragraph shall immediately notify the office of the chief medical examiner, or the medical examiner designated, to the location where the death has occurred, of the known facts concerning the time, place, manner, circumstances and cause of such death:

(1) death where criminal violence appears to have taken place, regardless of the time interval between the incident and death, and regardless of whether such violence appears to have been the immediate cause of death, or a contributory factor thereto;

(2) death by accident or unintentional injury, regardless of time interval between the incident and death, and regardless of whether such injury appears to have been the immediate cause of death, or a contributory factor thereto;

(3) suicide, regardless of the time interval between the incident and death;

(4) death under suspicious or unusual circumstances;

(5) death following an unlawful abortion;

(6) death related to occupational illness or injury;

(7) death in custody, in any jail or correctional facility or in any mental health or mental retardation institution;

(8) death where suspicion of abuse of a child, family or household member, elder person or disabled person exists;

(9) death due to poison or acute or chronic use of drugs or alcohol;

(10) skeletal remains;

(11) death associated with diagnostic or therapeutic procedures;

(12) sudden death when the decedent was in apparent good health;

(13) death within 24 hours of admission to a hospital or nursing home;

(14) death in any public or private conveyance;

(15) fetal death, as defined by section 202 of chapter 111, where the period of gestation has been 20 weeks or more, or where fetal weight is 350 grams or more;

(16) death of children under the age of 18 years from any cause;



(17) any person found dead;  
(18) death in any emergency treatment facility, medical walk-in center, day care center or under foster care; or  
(19) deaths occurring under such other circumstances as the chief medical examiner shall prescribe in regulations promulgated pursuant to the provisions of chapter 30A.

A physician, police officer, hospital administrator, licensed nurse, department of social services social worker or licensed funeral director who, having knowledge of such an unreported death within the commonwealth, fails to notify the office of the chief medical examiner of such death shall be punished by a fine of not more than \$500. Such failure shall also be reported to the appropriate board of registration, where applicable.

Section 6. Upon notification of a death in the circumstances enumerated in section 5, the chief medical examiner or his designee shall carefully inquire into the cause and circumstances of the death. If, as a result of such inquiry, the chief medical examiner or such designee is of the opinion that the death was due to violence or other unnatural means or to natural causes that require further investigation, he shall take jurisdiction. The body of the deceased shall not be moved, and the scene where the body is located shall not be disturbed, until either the medical examiner or the district attorney or his representative either arrives at the scene or gives directions as to what shall be done at the scene. In such cases of unnatural or suspicious death where the district attorney's office is to be notified, the medical examiner shall not disturb the body or the scene without permission from the district attorney or his representative.

The medical examiner shall be responsible for making arrangements for transport of the body. The district attorney or his law enforcement representative shall direct and control the investigation of the death and shall coordinate the investigation with the office of the chief medical examiner and the police department within whose jurisdiction the death occurred. Either the medical examiner or the district attorney in the jurisdiction where death occurred may order an autopsy. Cases requiring autopsy shall be subject to the jurisdiction of the office for such purpose. As part of his investigation, the chief medical examiner or his designee may, in his discretion, notwithstanding any other provision of law, cause the body to be tested by the department of public health for the presence of any virus, disease, infection or syndrome which may pose a public health risk.

If the medical examiner is unable to respond and take charge of the body of the deceased in an expeditious manner, the chief of police of the city or town wherein the body lies, or his representative, may, after conferring with the appropriate district attorney, move the body to another location until a medical examiner is able to respond. Before moving the body the police shall document all facts relevant to the appearance, condition and position of the body and every fact and circumstance tending to show the cause and circumstances of death.

In carrying out the duties prescribed by this section, the chief medical examiner or his designee shall be entitled to review and receive copies of medical records, hospital records, or information which he deems relevant to establishing the cause and manner of death. No person or hospital shall be subject to liability of any nature for providing such records or information in good faith at the request of the office. The chief medical examiner shall notify the local district attorney of the death of a child immediately following receipt of a report that such a death occurred.

Section 7. If, after making inquiry pursuant to section 6, the medical examiner is of the opinion that death may have resulted from injuries sustained in a motor vehicle accident, and that the death occurred within 4 hours of such accident, that the deceased was the operator and sole occupant of the motor vehicle, and that no other individuals were involved in the accident, the medical examiner shall submit to the state police laboratory a sample of blood from the deceased in an amount sufficient for chemical analysis if it is obtainable at an autopsy. If such chemical analysis indicates the presence of a controlled substance or alcohol, such sample shall be preserved for no less than 120 days from the date the sample is taken to permit an independent analysis. Such independent analysis shall be done upon the written request and at the expense of the next of kin of the decedent. No independent analysis of blood performed after 60 days pursuant to this section shall be admissible as evidence of the level of alcohol or controlled substance in any legal proceeding. The medical examiner shall not be civilly or criminally liable for any action taken in compliance with this section.

Section 8. All law enforcement officers, district medical examiners, hospitals and other medical facilities and other state, county and local officials shall cooperate with the office of chief medical examiner in the investigation of medico-legal cases. The office of the chief medical examiner may use the services of the department of state police laboratory for the performance of tests, documentation of evidence, investigating procedures and consultation on special problems. The chief medical examiner, subject to appropriation, may establish and operate a pathology laboratory within the office of chief medical examiner to meet the needs of that office. If other services required by the office of chief medical examiner are not available in the department of state police laboratory, the chief medical examiner may employ the services of other appropriate laboratories.

Section 9. If skeletal remains are deemed likely to be Native American, the state archaeologist shall be informed and in turn shall notify the commission on Indian affairs, which shall cause a site evaluation to be made to determine if the place where said remains were found is a Native American burial site.

Section 10. If, during the course of investigation, the medical examiner is of the opinion that the death may have been caused by the act or negligence of another, he shall at once notify the district attorney within whose district the deceased was found or, if such act or negligence has occurred in a different district, the district attorney for such other district. He shall also make available to the district attorney any and all records pertaining to such investigation. He shall in all cases forthwith certify to the city or town clerk or registrar in the place where the deceased died, the name and address, if known, or otherwise a description as full as may be of the deceased, and the cause and manner of death. Notwithstanding any other provision of law, such certification may indicate that the death was caused by auto-immune deficiency syndrome.

In cases of homicide, after indictment and arraignment, and while the defendant is in custody or subject to the jurisdiction of the court, upon his request, a copy of the official autopsy report and a copy of the inquest report, if any, shall be made available to him by the district attorney in accordance with the provisions of the Massachusetts Rules of Criminal Procedure.

Section 11. The chief medical examiner or his designee may request the attorney general or the district attorney to direct that an inquest be held. The attorney general or district attorney may, regardless of whether or not action has been taken by the office of the chief medical examiner, require an inquest to be held in case of any death. The district court that has jurisdiction over the matter shall thereupon hold an inquest. The court shall give seasonable notice of the time and place of the inquest to the department of telecommunications and energy, in any case of death by accident upon a public conveyance regulated by said department, and to the registry of motor vehicles in any case of death in which any motor vehicle is involved. Such notice shall also be given to any parent, spouse or other member of the deceased's immediate family or to the deceased's legal representative or legal guardian.

Any person who has been identified by the attorney general or the district attorney, as the case may be, as the target of an investigation in connection with the death of the deceased may be present during the holding of such inquest and be represented by counsel, and may request leave of the court to present or examine witnesses, and shall at the completion of the court's report of said inquest have the right to examine said report; provided, however, that no indictment shall be dismissed nor shall any evidence be suppressed for violation of the provisions of this

paragraph. All other persons not required by law to attend may be excluded from the inquest; provided, however, that the parents, guardian or next of kin of the person whose death is the subject of the inquest shall be deemed to be interested persons who may be present during the holding of such inquest. The court may order, as it deems appropriate, that witnesses to be examined during the inquest be sequestered.

Section 12. If the court determines that the inquest relates to an accidental death upon a conveyance regulated by the department of telecommunications and energy, the court shall cause a transcript of the inquest proceedings, after review and written approval by the court, and the bill for such transcript, to be forwarded to said department within 30 days after the closing of the inquest proceedings, and, when made, a copy of the court's report on the inquest.

Section 13. The court shall report in writing when, where and by what means the person met his death, the person's name, if known, and all material circumstances attending the death, and the name, if known, of any person whose unlawful act or negligence appears to have contributed thereto. The court shall file its report and a transcript of the inquest proceedings in the superior court for the county in which the inquest is held. Said transcript shall be impounded until the district attorney files a certificate with the superior court indicating that he will not present the case to a grand jury, or files notice with the superior court that the grand jury has returned a true bill or a no bill after presentment by the district attorney.

Section 14. If a person charged by an inquest report with the commission of a crime is at large, the district court, upon the request of the district attorney, shall forthwith issue process for such person's arrest, returnable before any court or magistrate having jurisdiction.

Section 15. No embalming fluid, or any substitute therefor, shall be injected into the body of any person whose death is being investigated by the office until authorization from a representative of the office has first been obtained.

Section 16. After investigation or examination by the office, the body shall be released to the person with the proper legal authority to receive it, including the surviving spouse, the next of kin or any friend of the deceased, who shall have priority in the order named. If the body is unidentified or unclaimed after the investigation is completed, the medical examiner shall release it to the department of public welfare, which shall bury it in accordance with section 18 of chapter 117. Prior to the release of such unidentified or unclaimed body to the department of public welfare, the chief medical examiner or his designee shall certify to the city or town clerk in the municipality where the death occurred the facts of the death as required by section 9 of chapter 46. If further identifying information is developed, the chief medical examiner or his designee shall furnish a completed certificate of death, as required by said section 9, to the city or town clerk.

In cases where jurisdiction is declined by the office, medical examiners shall have no responsibility for the pronouncement or certification of death. Immediately after pronouncement of death, a physician licensed in the commonwealth who attended the decedent during the decedent's last illness, or his covering physician, or the licensed physician who has declared such person dead, or, if the death occurred in a hospital, a hospital medical officer duly authorized by the administrator, shall, in the order named, furnish for registration a standard certificate of death as required by said section 9. The chief medical examiner or his designee may allow any body to be moved without pronouncement if excessive hardship to the family of the decedent would otherwise result. The office may promulgate regulations further defining the circumstances in which a body may be moved without pronouncement of death. Any physician described herein who refuses to pronounce and certify death in accordance with said section 9 when jurisdiction has been declined by the office shall be subject to a fine of not more than \$500. Such refusal shall also be reported to the board of registration in medicine. The chief medical examiner or his designee may waive the requirements of this paragraph and assume jurisdiction for the purpose of certifying the facts of the death as required by said section 9 in cases where excessive hardship would otherwise result due to travel or in other emergency situations as may be defined by regulations promulgated by the office.

Section 17. A medical examiner shall, on payment of a fee of \$50, view the body and make personal inquiry concerning the cause and manner of death of any person whose body is intended for cremation or burial at sea and shall authorize such cremation or burial at sea only when no further examination or judicial inquiry concerning such death is necessary. Said fee shall be paid by the person to whom such authorization for cremation or burial at sea is given.

Section 18. A medical examiner responding to the scene of a death shall take charge of any money or other personal property of the deceased found on or near the body, or may request the police department to do so. The medical examiner or police department shall, unless such money or property is required as evidence, deliver it to the person entitled to its custody or possession, or, if not claimed within 60 days, to a public administrator. A medical examiner or police officer who fraudulently refuses to deliver such property within 10 days after demand or who converts such property to his own use shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years.

#### **Executive Office of Economic Affairs Reorganization 4**

SECTION 141. Chapter 23 of the General Laws is hereby amended by striking out sections 1 to 5, inclusive, as appearing in the 2000 Official Edition, and inserting in the place thereof the following 5 sections:-

Section 1. (a) Within the executive office of economic affairs, there shall be a department of labor and workforce development, in this chapter called the department.

(b) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for the necessary expenses of the department. The department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America and its agencies, for the purposes of assisting its divisions in the discharge of their duties.

Section 2. The director shall be appointed by the governor for a term continuous with the governor and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term continuous for a like term. The director shall devote his full time during business hours to the duties of his office. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof. The director shall receive such salary as the governor shall determine; provided, however, that such salary shall be equivalent to the salary received by the director of business and technology or the director of consumer affairs and business regulation.

Section 3. Within the department, there shall be a division of workplace dispute resolution, a division of employment security and a division of workforce training; provided, however, that notwithstanding any general or special law to the contrary, the attorney general shall have exclusive authority to conduct field investigations, inspections and prosecutions with respect to, and otherwise to enforce, chapters 149 and 151, all regulations of the department thereunder, and all other laws pertaining to wages, hours and working conditions, child labor and workplace safety and fair competition for bidders on public construction, except the laws pertaining to lead and asbestos hazards and workplace hygienic standards which the department shall enforce. The director shall, in consultation with the secretary, appoint a senior staff member to be the head

of the division of employment security which person shall not already be in charge of or responsible for of a subdivision, office, commission, or bureau within said department. In addition, the director shall appoint a senior staff person to be the head of the division of workplace dispute resolution and a senior staff member to be the head of the division of workforce training, each of whom may be in charge of or responsible for of a subdivision, office, commission, or bureau within said department. The head of a division shall not receive a salary or compensation in addition to the salary or compensation he receives from the agency for which each is responsible.

Section 3A. There shall be a surcharge on fees assessed by the division of occupational safety within the department of economic security for the licensure, registration or certification of certain professionals, and on fees assessed for the renewal or duplication of such licenses, registrations or certifications, in accordance with the provisions of this section. The amount of the surcharge shall be as follows: a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform deleading services; a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform deleading services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement analytical services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement training; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide deleading training; and a \$50 annual surcharge to those persons licensed or registered to operate an employment agency as defined by section 46A of chapter 140. Said surcharges shall be collected by the division of occupational safety and transmitted to the treasurer for deposit into the general fund.

Section 4. (a) The following state agencies, divisions and bureaus shall be within the division of workplace dispute resolution: the division of industrial accidents; the bureau of conciliation and arbitration, the state labor relations commission, the joint labor- management committee and the division of occupational safety. Notwithstanding any this section, the division of industrial accidents, the bureau of conciliation and arbitration, the state labor relations commission and the joint labor-management committee shall not be subject to the jurisdiction of the department, except to the extent of compliance with reasonable requests from the coordinating council established by section 3B of chapter 23A, as appearing, for the sharing of information which does not interfere with the efficient and independent functioning of the offices, divisions or agencies.

(b) The following funds shall be within the division of employment security: the Unemployment Insurance Trust Fund, the Workforce Training Fund and the Medical Security Trust Fund. The head of the division shall, in consultation with the director and secretary, directly oversee the functions of the funds.

(c) The following state agencies, divisions, boards and programs shall be within the division of workforce training: the state workforce investment board, the one-stop career centers, and the division of apprentice training. The division head shall consult and coordinate with the director and secretary to implement the laws and oversee the programs affected by the agencies, divisions, boards and programs within the division. Notwithstanding any general or special law to the contrary, the division head shall administer the one-stop career centers and shall contract with the division of employment security to ensure, through all reasonable efforts, the smooth and uninterrupted processing of applications and delivery of benefits. The division head shall also work as a partner with the Commonwealth Corporation and other quasi-public agencies as approved by the director and the secretary in implementing and overseeing all programs established pursuant to federal law and currently subject to control by the Commonwealth Corporation.

Section 5. (a) Subject to appropriation, the head of the division of employment security shall, at the request of and in consultation with the head of the division of workforce training, and with the approval of director of labor and workforce development, shall make expenditures on workforce training grants for the following purposes:

- to provide grants to employers, employer groups, labor organizations and training providers for projects to provide education and training to existing employees and newly hired workers; provided however, that grants shall be for amounts not to exceed \$250,000 and shall be for terms not to exceed 2 years; and provided further, that in determining who shall receive a grant, the division heads and director shall consider:
  - whether the project will increase the skills of low-wage, low-skilled workers;
  - whether the project will create or preserve jobs at wages sufficient to support a family;
  - whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers;
  - whether the employer has made a commitment to provide significant private investment in training during the duration of the grant and after the grant has expired;
  - whether the project will supplement, rather than replace, private investments in training;
  - whether the employer is a small business that lacks the capacity to provide adequate training without such assistance;
  - whether the project will provide residents of the commonwealth with training for jobs that could otherwise be filled only be residents of other nations; and
  - whether the project is consistent with the workforce development blueprint prepared by the regional employment board.
- to provide technical assistance to increase training opportunities available to employees; provided, however, that the director may provide this direct technical assistance by using existing institutions such as workforce investment boards, community colleges, labor organizations, administrative entities under the federal Workforce Investment Act, Public Law 105-220, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the department of labor and workforce development or of the commonwealth corporation; and provided further, that such expenditures shall not exceed \$3,000,000 each year and the director shall demonstrate that each \$1 expended generates not less than \$5 in private investment job training.

(b) The director of the department of labor and workforce development shall adopt regulations, pursuant to chapter 30A, to carry out this section.

(c) Not later than September 1 of each year, the director of labor and workforce development shall file a report in writing with the joint committee on commerce and labor and the house and senate committees on ways and means concerning the grants made in the fiscal year ending on the preceding June 30, together with such recommendations and additional information as the director considers appropriate.

(d) Documentary materials or data made or received by an employee of the department,

to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for a grant from the fund established in this section, shall not be public records and shall not be subject to section 10 of chapter 66.

The director, in consultation with the secretary, shall divide the commonwealth into employment districts. Subject to appropriation, the director may establish and maintain additional free public employment offices as he deems necessary. The department may contract with one-stop career operators, certified in accordance with the provisions of Public Law 105-220, and shall have all the powers of such an agency as specified in said act.

#### **Executive Office of Economic Affairs Reorganization 5**

SECTION 142. Section 9J of chapter 23 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The secretary, in consultation with the director of labor and workforce development and the director of employment security, may adopt, amend, alter or repeal, and shall enforce, all rules, regulations and orders as may be necessary or suitable for the administration and enforcement of chapter 151A. The secretary shall consult with the director of labor and workforce development when the changes may affect the operations of the free public employment offices.

#### **Executive Office of Economic Affairs Reorganization 6**

SECTION 143. Section 9N of said chapter 23 is hereby further amended by striking out the first sentence, as most recently amended by section 2 of chapter 347 of the acts of 2002, and inserting in place thereof the following sentence:- There shall be in the division of workforce training within the department and subject to the supervision and control of the director, a bureau of public employment offices.

#### **Executive Office of Economic Affairs Reorganization 7**

SECTION 144. Said section 9N of said chapter 23 is hereby further amended by striking out, in line 24, the words “employment and ”, inserted by said section 2 of said chapter 347, and inserting in place thereof the following word:- workforce.

#### **Executive Office of Economic Affairs Reorganization 8**

SECTION 145. Said section 9N of said chapter 23 is hereby further amended by striking out, in line 28, the words “employment and ”, inserted by section 1 of said chapter 347, and inserting in place thereof the following word:- workforce.

#### **Executive Office of Economic Affairs Reorganization 9**

SECTION 146. The first paragraph of section 11E of said chapter 23, as appearing and amended by chapter 357 of the acts of 2002, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the department of labor and workforce development an apprenticeship council, to consist of 8 members, 6 of whom shall be appointed by the director of labor and workforce development with the approval of the governor, 1 of whom shall be the director of labor and workforce development or his successor, in the department of labor and workforce development, ex officio, and 1 of whom shall be the associate commissioner of career and technical education or his successor, in the department of education, ex officio.

#### **Executive Office of Economic Affairs Reorganization 10**

SECTION 147. Said chapter 23 of the General Laws, as appearing, is hereby amended by inserting, after section 11L, the following new section:-

Section 11M. (a) There shall be in the department, but not subject to the jurisdiction thereof, a state workforce investment board, hereinafter called the board. The board shall consist of the governor; 3 members of the Senate, two of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 2 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader; the director of the department of labor and workforce development; the director of the department of business and technology; the secretary of the executive office of health and human services; the head of the division of employment security; the commissioner of the department of transitional assistance; the commissioner of the department of education; the chancellor of the board of higher education or another official appointed by the governor representing education and training issues; the head of the division of workforce training; and the following additional members, as appointed by the governor: 2 mayors or chairs of boards of selectmen; 2 persons with experience with youth activities; 2 persons with experience and expertise in the delivery of workforce investment activities, including 1 president of a community college in the commonwealth; 11 persons representing public government, public secondary and post-secondary education, and organizations representing or providing services to trainees, including at least 3 representatives of organized labor, 2 of whom shall be selected from among individuals nominated by state labor federations; 33 persons representing business and industry in the commonwealth to be selected from among individuals nominated by state business associations and trade organizations, including at least 3 chairs of regional employment boards; and such other members as the governor in his discretion may choose to appoint, provided that the members shall be appointed to represent diverse regions of the state, including urban, suburban and rural areas. The members shall serve two-year terms at the pleasure of the governor, and shall serve without compensation.

(b) The governor shall select an individual to serve as chairperson of the board from among the members. The Chair shall serve at the pleasure of the governor.

(c) The board shall adopt by-laws to govern its proceedings, and shall carry out the responsibilities required of it under the federal Workforce Investment Act of 1998, including, but not limited to: assisting the governor in preparing a strategic plan for the development of the Massachusetts Workforce Investment System for Massachusetts residents and businesses pursuant to said Act. The board shall also carry out such additional responsibilities as the governor may from time to time require.

(d) The administrative staff of the board shall be supervised by and shall report to the director of labor and workforce development. The board shall contract with said department for personnel services and other operating needs. Notwithstanding any law or special act to the

contrary, other departments, agencies, divisions, commissions, boards and bureaus of the commonwealth authorized to provide such information and support as the board may from time to time require in the course of carrying out its responsibilities.

#### **Executive Office of Economic Affairs Reorganization 11**

SECTION 148. Chapter 23A of the General Laws is hereby amended by striking out section 1, as appearing in the 2000 Official Edition, and inserting in the place thereof the following section:-

Section 1. (a) Within the executive department, but not within the governor's cabinet, there shall be a department of business and technology, in this chapter called the department, which shall be under the control of the director of business and technology. The director shall be appointed by the governor for a term conterminous with the governor's and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term conterminous with that of the governor. The director shall devote his full time during business hours to the duties of his office. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof. The director shall receive such salary as the governor shall determine; provided, however, that such salary shall be equivalent to the salary received by the director of labor and workforce development or the director of consumer affairs and business regulation.

(b) There shall be within the department the Massachusetts office of business development hereinafter referred to as MOBD, and all other entities within that office, the office of travel and tourism, the office of small business and entrepreneurship, the Massachusetts trade office, the office of science and technology and the office of minority and women business assistance and all entities within that office.

(c) The department may make discretionary and nondiscretionary grants to persons or public or private nonprofit entities for projects and programs which further implement the mission of the department and its agencies and which benefit the general public; provided, however, that the department shall annually make a report to the secretary of administration and finance and the house and the senate committees on ways and means on the use of such funds; and provided further, that any such grant shall be used in accordance with regulations promulgated pursuant to section 15 of chapter 7A.

#### **Executive Office of Economic Affairs Reorganization 12**

SECTION 149. Section 3B of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 to 10, inclusive, the words "economic development or his designee who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor and workforce development or his designee; a representative of MOBD designated by the director of economic development; the deputy director of the department of economic development having oversight responsibility of the Massachusetts office of business development or his designee" and inserting in place thereof the following words:- business and technology or his designee who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor and workforce development or his designee; a representative of MOBD designated by the director of business and technology; the deputy director of business and technology having oversight responsibility of the office of business and technology or his designee.

#### **Executive Office of Economic Affairs Reorganization 13**

SECTION 150. Said section 12 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "office of international trade and investment" and inserting in place thereof the following words:- Massachusetts trade office.

#### **Executive Office of Economic Affairs Reorganization 14**

SECTION 151. The second paragraph of section 13A of said chapter 23A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The tourism executive director shall be appointed by the director of business technology, with the approval of the governor and the secretary of economic affairs, and may, with like approval, be removed.

#### **Executive Office of Economic Affairs Reorganization 15**

SECTION 152. The first paragraph of section 23A of said chapter 23A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the department of economic development a Massachusetts trade office, which shall be under the supervision and control of an executive director.

#### **Homelessness Initiative II**

SECTION 153. Subsection (r) of section 3 of chapter 23B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding at the end of said subsection the following:-- provided further, that emergency case criteria used by the department shall include granting priority to persons who have been granted a stay of execution under section nine of chapter two hundred and thirty nine.

#### **Residential Conservation Service Program**

SECTION 154. Section 19 of chapter 25 of the General Laws is hereby amended by inserting, after the word "programs" in line 6, as appearing in the 2000 Official Edition, the following words:- and the residential conservation service program administered by the division of energy resources.

#### **EOEA Reorg 74**

SECTION 155. Chapter 28 of the General Laws is hereby repealed.

### **Child Care Affordability Scholarship Repeal**

SECTION 156. Section 5A of chapter 28A of the General Laws is hereby repealed.

### **Definition of Balanced Budget 2**

SECTION 157. Section 1 of Chapter 29, as amended by section 33 of chapter 184 of the acts of 2002, is amended by striking in its entirety clause (ii) of the definition for “balanced budget” and inserting in place thereof the following clause:-

(ii) the amount transferred to the stabilization fund pursuant to subsection (a) of section 5C is greater than or equal to one quarter of one per cent of state tax revenue for such fiscal year.

### **Definition of Balanced Budget 3**

SECTION 158. Said section 1, as so amended, is hereby further amended by striking out in its entirety, in lines 30 through 33, the definition for “consolidated net surplus in the operating funds” and inserting in place thereof the following definition:-

“consolidated net surplus in the budgetary funds” the sum of the undesignated balances in the budgetary funds, except funds established by Section 2H and Section 2I.

### **Local Aid Fund Repeal**

SECTION 159. Section 2C 1/2 of chapter 29 of the General Laws is hereby repealed.

### **Stabilization Fund Cap**

SECTION 160. Section 2H of said chapter 29 is hereby amended by striking out, in line 28, the figure “10,” inserted by subsection A of section 13 of chapter 177 of the acts of 2001, and inserting in place thereof the following figure:— 15.

### **Environmental Challenge Fund Repeal**

SECTION 161. Section 2J of said chapter 29 is hereby repealed.

### **Toxics Use Reduction Fund Repeal**

SECTION 162. Section 2K of said chapter 29 is hereby repealed.

### **Environmental Permitting and Compliance Assurance Fund Repeal**

SECTION 163. Section 2P of said chapter 29 is hereby repealed.

### **Safe Drinking Water Act Fund Repeal**

SECTION 164. Section 2P 1/2 of said chapter 29 is hereby repealed.

### **Maximization Fund Repeal**

SECTION 165. Section 2R of said chapter 29 is hereby repealed.

### **Watershed Management Fund Repeal**

SECTION 166. Section 2T of said chapter 29 is hereby repealed.

### **Ponkapoag Recreational Fund Repeal**

SECTION 167. Section 2U of said chapter 29 is hereby repealed.

### **Clean Air Act Compliance Fund Repeal**

SECTION 168. Section 2Y of said chapter 29 is hereby repealed.

### **State Building Management Fund Repeal**

SECTION 169. Section 2AA of said chapter 29 is hereby repealed.

### **Assisted Living Admin Fund Repeal**

SECTION 170. Section 2BB of said chapter 29 is hereby repealed.

### **Reggie Lewis Fund Repeal**

SECTION 171. Section 2CC of said chapter 29 is hereby repealed.

**Childrens and Seniors Repeal**

SECTION 172. Section 2FF of said chapter 29 is hereby repealed.

**Health Protection Fund Repeal**

SECTION 173. Section 2GG of said chapter 29 is hereby repealed.

**Leo J. Martin Recreation Fund Repeal**

SECTION 174. Section 2II of said chapter 29 is hereby repealed.

**TANF Repeal**

SECTION 175. Section 2KK of said chapter 29 is hereby repealed.

**Child Care Fund Repeal**

SECTION 176. Section 2LL of said chapter 29 is hereby repealed.

**Social Services Fund Repeal**

SECTION 177. Section 2MM of said chapter 29 is hereby repealed.

**Caseload Increase Mitigation Repeal**

SECTION 178. Section 2NN of said chapter 29 is hereby repealed.

**Local Consumer Inspection Repeal**

SECTION 179. Section 2OO of said chapter 29 is hereby repealed.

**Firearms Record Keeping Fund Repeal**

SECTION 180. Section 2SS of said chapter 29 is hereby repealed.

**Danvers State Hospital Reuse Fund Repeal**

SECTION 181. Section 2UU of said chapter 29 is hereby repealed.

**Brownfields Revitalization Fund Repeal**

SECTION 182. Section 2VV of said chapter 29 is hereby repealed.

**Adoption Affordability Assistance Fund Repeal**

SECTION 183. Section 2WW of said chapter 29 is hereby repealed.

**Tobacco Settlement Fund Repeal**

SECTION 184. Section 2XX of said chapter 29 is hereby repealed.

**False Claims Prosecution Fund Repeal**

SECTION 185. Section 2YY of said chapter 29 is hereby repealed.

**Agricultural Resolve and Security Fund Repeal**

SECTION 186. Section 2EEE of chapter 29 of the General Laws is hereby repealed.

**Establishment of Firearms Fingerprint Identity Verification Trust Fund**

Section 187. Chapter 29 of the General Laws is hereby amended by inserting the following section:-

Section 2AAA. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Firearms Fingerprint Identity Verification Trust Fund. Amounts credited to such fund shall be available, without further appropriation, to the Department of State Police for the purposes of financing fingerprint identification verifications with the fingerprint records maintained by the Federal Bureau of Investigations or any other federal agency for the verification of firearms license applicant identities. \$25 of the fee assessed pursuant to sections 122, 122B, 129B, 131, 131A, 131F, and 131H of chapter 140 of the General Laws shall be deposited in said fund. Said funds shall be

utilized for the sole purpose of making payments charged to said department by the Federal Bureau of Investigations or other entity for fingerprint identification verification.

#### **Legislative Requests for Information**

SECTION 188. Said chapter 29 of the General Laws is hereby further amended by striking out section 3A and inserting in place thereof the following:—

Section 3A. Any officer having charge of any state agency which receives a periodic appropriation from the commonwealth, or any officer of a state authority or commission, shall upon the request of any standing committee of the house or senate, or of any joint standing committee of the general court, furnish in writing to such committee, in a format prescribed by such committee, any information requested by such committee that is necessary for the committee to perform its duties. The information shall include, but not be limited to, historical, current or proposed operational costs funded through either appropriation, capital accounts, federal grants, trust funds or other funding sources, the officer's estimate of the cost of proposed legislation affecting activities which are or would be under his supervision, estimates of and reasons for any supplemental funding that is projected to be needed during the fiscal year, estimates of revenue collections, estimates of proposed changes in fees or taxes, and any other such information as may be required by the committee. Such estimates shall be provided to such committee within 10 days of the receipt of such a request by the officer. If the officer fails to respond within these 10 days, the matter shall be referred to the house or senate committee on post audit and oversight which shall, in conjunction with the committee that originally requested the information, determine if further action is necessary.

#### **Disposition of Consolidated Net Surplus**

SECTION 189. Chapter 29 of the General Laws is hereby amended by striking out 5C, as amended by section 43 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:—

Section 5C. The comptroller shall annually, on or before October 31, certify to the commissioner of administration the amount of the consolidated net surplus in the budgetary funds at the close of the preceding fiscal year, which shall not be less than the above-trend state tax revenues as determined according to chapter 62F. The amounts so certified shall be disposed as follows:

(a) an amount equal to one-half of one per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year and one quarter of one per cent of the total revenue from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund.

(b) the comptroller shall transfer 5 per cent of the amount remaining of the consolidated net surplus after amounts made available in clause (a) to the One-Time Capital Projects Improvement Fund established in section 2BBB;

(c) the comptroller shall transfer 15 per cent of the amount remaining of the consolidated net surplus after amounts made available in clause (a) to the Open Space Acquisition Fund established in section 2CCC;

(d) for any fiscal year for which the comptroller determines on or before October 31 of the succeeding fiscal year that there is a negative balance in the funds created pursuant to section 49 as reported in his annual financial report, the comptroller may transfer funds up to 20 per cent of the amount remaining of the consolidated net surplus after amounts made available in clauses (a), (b) and (c) to an account established pursuant to the comptroller's authority under sections 8 and 9 of chapter 7A for the purposes specified in said section 49;

(e) any remaining amount of such consolidated net surplus after amounts made available in clauses (a), (b), (c), and (d) shall be transferred to the Commonwealth Stabilization Fund; and

(f) all transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from said undesignated fund balances provided that no such transfer shall cause a deficit in any of said funds.

#### **EOEA Reorg 75**

SECTION 190. Section 9A of chapter 29 of the General Laws is hereby repealed.

#### **9C Authority**

SECTION 191. Section 9C of chapter 29 of the General Laws, as amended by section 3 of chapter 1 of the acts of 2003, is hereby further amended by striking out said section and inserting in place thereof the following:—

Section 9C. Whenever, in the opinion of the commissioner of administration, available revenues as determined by him from time to time during any fiscal year under section 5B will be insufficient to meet all of the expenditures authorized to be made from any fund, whether by appropriation or distribution, he shall within 5 days notify in writing the governor and the house and senate committees on ways and means of the amount of such probable deficiency of revenue and the governor shall, within 15 days after such notification, reduce allotments under section 9B, and submit in writing a report stating the reason for and effect of such reductions, or submit to the general court specific proposals to raise additional revenues by a total amount equal to such deficiency. Any action challenging the legality of an allotment reduction pursuant to this section shall be commenced in the supreme judicial court for Suffolk county.

Whenever the governor reduces allotments under the preceding paragraph, the governor shall notify the house and senate committees on ways and means in writing 15 days before any alterations to the original allotment reduction plan. Any alterations to the original allotment reduction plan that would seek to increase an allotment must provide an equal reduction in other allotments or propose to raise additional revenues to total the amount of the allotment increase.

As an alternative to the submission of such proposals to raise additional revenues and to the extent funds are available, the governor may recommend an appropriation equal to such deficiency from the Commonwealth Stabilization Fund in the manner provided in section 2H.

#### **EOEA Reorg 76**

SECTION 192. Section 1 of chapter 30 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the words "the metropolitan district commission,".



### **State Employee Workers' Compensation Benefits**

SECTION 193. Section 58 of said chapter 30, as appearing in the 2000 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Notwithstanding this section, an employee who, while in the performance of duty, receives bodily injuries resulting from acts of violence of patients or prisoners in his custody, and who as a result of such injury would be entitled to benefits under sections 34 and 34A of said chapter 152 shall be paid the difference between his regular salary and the weekly cash benefits to which he would be entitled under said chapter 152; or, under section 35 of said chapter 152, shall be paid the difference between his regular salary and the sum of the weekly cash benefits to which he would be entitled under said chapter 152 and an assigned or agreed upon earning capacity. Employees who are separated from employment by way of resignation or retirement shall not be entitled to payments under this section.

### **Procedure for the Retention of Outside Counsel by the Commonwealth**

SECTION 194. Chapter 30 of the General Laws is hereby amended by adding the following section:-

Section 65. (a) A lawyer who is not a regular state employee shall not provide legal services for the commonwealth, or for any department, agency, board or commission thereof, unless:

(1) the governor's chief legal counsel certifies in writing that no state employee can provide the legal services that the lawyer is to provide; and

(2) a written request for the legal services that the lawyer is to provide is made publicly available for competitive bidding, in a manner provided by regulations of the state purchasing agent, approved by the comptroller. If the legal services to be provided require appointment as a special assistant attorney general, the attorney general shall be consulted during the procurement process to ensure that the appropriate services are contracted for and to ensure the selection of a qualified bidder. This clause shall not apply in an emergency, as described in writing by the governor's chief legal counsel.

(b) The secretary of administration and finance, with the comptroller's assistance, shall make a written semiannual report of expenditures for legal services for the commonwealth, or for any department, agency, board or commission thereof, provided other than by regular state employees. The report shall show the name of each lawyer, law firm if any, amount expended, and a brief statement of the legal services provided. The report shall be made to the house and senate committees on ways and means and the joint committee on state administration, not later than September 1 each year for the period from January 1 to June 30 of that year, and not later than March 1 each year for the period from July 1 to December 31 of the preceding year.

(c) This section shall apply only to legal services provided under contract with the governor or with an officer, department, agency, board or commission serving under the governor or within one of the executive offices headed by a secretary appointed by the governor.

### **EOEA Reorg 77**

SECTION 195. Section 62 of chapter 31, as so appearing, is hereby amended by striking out, in line 33, the words "or the metropolitan district commission".

### **Clarifying Pension Funding Schedule**

SECTION 196. Section 1 of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 66 through 68, the words "and approved by the general court and the house and senate committees on ways and means pursuant to the provisions of section twenty-two C".

### **Clarifying Pension Funding Schedule**

SECTION 197. The definition of "Commonwealth funding schedule" in said section 1 of said chapter 32, as so appearing, is hereby amended by striking out in lines 89 through 95 the following words:- ; provided, however, that the house and senate committees on ways and means shall have reviewed and approved in advance such actuarial, economic, and demographic assumptions and the manner and methodology used in the development of the actuarial reports and recommendations, prior to the consideration of said actuarial valuations, reports, and schedules.

### **Insurance for Volunteer Public Safety Personnel**

SECTION 198. Section 2B of chapter 32, as so appearing, is hereby amended by inserting at the end thereof the following sentence:- Any governmental units may provide health insurance coverage to such individuals and may require such individuals to pay any portion of the premium costs necessary to provide coverage to such individuals and a reasonable service charge.

### **Clarifying Pension Funding Schedule**

SECTION 199. The first paragraph of subsection (1) of section 22C of said chapter 32, as amended by section 17 of chapter 177 of the acts of 2001, is hereby amended by striking out, in lines 39 to 45, the following words:- ; provided, however, that the house and senate committees on ways and means shall have reviewed and approved in advance the actuarial, economic, and demographic assumptions upon which said actuarial valuation reports and such other reports are based, and the manner and methodology used in the development of the actuarial reports and recommendations, prior to the consideration of said actuarial valuation, reports, and schedules by the general court.

### **Clarifying Pension Funding Schedule**

SECTION 200. Said subsection (1) of said section 22C of chapter 32, as so appearing, is hereby amended by striking out, in lines 59 to 66, the following words:- ; provided, however, that the house and senate committees on ways and means shall have reviewed and approved in advance the actuarial, economic, and demographic assumptions upon which said actuarial valuation reports and such other reports are based, and

the manner and methodology used in the development of the actuarial reports and recommendations, prior to the consideration of said actuarial valuation, reports, and schedules by the general court.

#### **Clarifying Pension Funding Schedule**

SECTION 201. Said second paragraph of said subsection (1) of said section 22C of said chapter 32, as so appearing, is hereby further amended by striking out the fourth and fifth sentences.

#### **Clarifying Pension Funding Schedule**

SECTION 202. Said subsection (1) of said section 22C of said chapter 32, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, for the ensuing fiscal years, the public employee retirement administration commission shall, every 3 years, complete a periodic actuarial valuation report to determine the commonwealth's total actuarial liability and shall conduct and complete a periodic experience investigation which shall accompany every other actuarial valuation report. A valuation report shall be completed to determine the actuarial liability as of January 1, 2005. Subsequent valuation reports shall be completed to determine the actuarial liability as of January 1, 2008, as of January 1, 2011, as of January 1, 2014 and as of January 1, 2017. A periodic experience investigation shall be completed every six years as follows: as of January 1, 2005, as of January 1, 2011 and as of January 1, 2017. The commissioner of administration shall provide the valuation report and experience investigation to the house and senate committees on ways and means and the pension reserves investment management board for review not later than April 1 of each calendar year during which the commissioner shall report. Based on the information included in the valuation report and the experience investigation, the commissioner shall establish a funding schedule in each of the years for which an actuarial valuation report is required. Annual appropriations to the commonwealth's pension liability fund shall be made pursuant to the funding schedule for the ensuing three fiscal years.

#### **EOPS Reorg 5**

SECTION 203. Chapter 38 of the General Laws is hereby repealed.

#### **EOEA Reorg 78**

SECTION 204. Section 20 of chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 41, the words "the metropolitan district commission".

#### **EOEA Reorg 79**

SECTION 205. Section 24 of said chapter 40B, as so appearing, is hereby further amended by striking out, in lines 18 and 19, the words "the commissioner of environmental management,".

#### **Metropolitan Planning Organizations**

SECTION 206. Chapter 40B of the General Laws is hereby amended by adding the following caption and section:-

##### **METROPOLITAN PLANNING ORGANIZATIONS.**

Section 30. The policy board of every metropolitan planning organization designated under 23 U.S.C. section 134 shall include, for advisory purposes only and not as voting members, the director of economic development, the director of housing and community development, the commissioner of environmental management, and the commissioner of environmental protection, or their designees.

#### **EOEA Reorg 80**

SECTION 207. Section 8 of chapter 40N, as so appearing, is hereby amended by striking out, in lines 69 and 70, the words "department or commission" and inserting in place thereof the following word:- departments.

#### **Quinn Bill Reform**

SECTION 208. Chapter 41 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 108L and inserting in place thereof the following section:-

Section 108L. There is hereby established a career incentive pay program offering base salary increases to regular full-time members of the various city and town police departments, uniformed members of the department of state police appointed under section 10 of chapter 22C of the General Laws and state police detectives appointed under said section 10, as a reward for furthering their education in the field of criminal justice.

Only graduates of criminal justice or law enforcement programs that meet or exceed the guidelines for criminal justice and law enforcement programs as set forth by the board of higher education shall be eligible for the police career incentive pay program. Any degree programs pursued for police career incentive pay increases shall be required to submit a letter of intent annually to the chancellor of the board of higher education to seek approval as a police career incentive pay program. The president of a New England association of schools and colleges-accredited institution or a board of higher education-approved institution with an approved criminal justice or law enforcement program shall submit a letter of intent to the chancellor of the board of higher education indicating the institution's intent to seek approval of its criminal justice degree program(s) during the first year of the implementation of the guidelines. Said letter of intent shall include a statement of commitment to implement guidelines for criminal justice and law enforcement programs.

Any application to seek approval as a police career incentive pay program participating institution shall include the following: (1) a profile of said program, (2) a self-assessment of the program(s), and (3) an application fee to cover the evaluation costs of the review process.

Each institution shall pay an evaluation fee to the board of higher education's police career incentive pay program quality assurance trust fund to cover the costs of review of its program(s). In addition to said fee, the institution shall pay for travel, room, board and other normal expenses of the external evaluation committee. If said committee requires subsequent visits, the board of higher education shall charge for further expenses at its discretion. Evaluation fees will be determined by the total number of degrees awarded to all students enrolled in the criminal justice and law enforcement program(s) being reviewed based on an average of the three years immediately prior to the submission of the application. Fees shall be set in the following manner: \$1000 for a degree program with an average enrollment of not more than 20 students per year, \$1500 for a degree program with an average enrollment between 20 and 50 students per year, \$2000 for a degree program with an average enrollment between 51 and 100 students per year, \$2500 for a degree program with an average enrollment between 101 and 150 students per year, \$3000 for a degree program with an average enrollment between 151 and 200 students per year, and \$3500 for a degree program with an average enrollment above 200 students per year.

Once an application is submitted, the following timetable shall apply: (1) not more than 30 business days after application submission, the board of higher education shall determine whether or not the application is complete and notify the institution, (2) not more than 30 business days after notification, the board of higher education shall appoint an external evaluation committee in accordance with the guidelines for criminal justice and law enforcement academic programs, set forth by said board, (3) not more than 30 business days after committee appointment, said committee shall submit a report to the board of higher education staff, (4) not more than 30 business days after receipt of said report by the board of higher education, the committee's final report shall be sent to the institution for a response, (5) not more than 30 days after receiving the institution's response, the staff of the board of higher education shall evaluate materials submitted by the institution, the committee's written report, the written response by the institution and any additional information submitted by the institution, and based on its review, the board staff shall make a recommendation to the board for deferral, approval or disapproval. If the board recommends disapproval, the board shall provide a statement of reasons for the decision.

Programs approved by the board of higher education shall be included on an approved program list for five years. The institutions shall annually submit a status report on their approved programs to the board. Programs receiving deferrals from the board shall be notified of specific conditions that must be met and a timetable for coming into compliance. Programs not approved by the board may not re-apply for at least one calendar year following the board's determination.

When, in the judgment of the board staff, a review or inspection of a degree program is necessary, the board, in conjunction with the applicant institution, shall select and appoint an external evaluation committee to serve in the following manner: (1) The committee shall review the materials submitted by the program, shall, under most circumstances, visit the institution and shall submit a report to the board containing recommendations regarding the program's request for approval. (2) The number of reviewers on the committee shall be determined by size, number and level of program(s) being reviewed and shall in no instance include fewer than two academicians. (3) To be eligible to serve as an evaluator, individuals shall have earned at least a master's degree in criminal justice or a closely related discipline. Academic team members shall have professional experience in college-level teaching, research, administration and/or other relevant activities with institutions of higher education. Practitioners shall have at least five years of full-time supervisory and/or administrative experience as criminal justice practitioners, as well as specific knowledge of, or experience in, criminal justice education. (4) No person shall serve as an evaluator who is employed by an institution deemed by the board to be in direct competition with the institution under review. (5) No person shall serve as an evaluator who has a present official or unofficial connection with the institution under review or has had such a connection within the previous 4 years, or who the board has reason to believe has independent or pecuniary interest in the outcome of the board's final action. External evaluators shall have a disinterested professional commitment to the task of rendering objective findings and recommendations based upon empirical evidence and informed judgments. (6) Each committee shall have a chair who shall be responsible for providing leadership to the committee, for being the committee's liaison with the institution and for preparing the committee's report with the other committee members. (7) The committee shall submit a written report, including recommendations to the board. Board staff shall forward a copy of said report to the institution to correct factual errors and respond to the content and recommendations within said report. (8) Evaluators will be given an honorarium by the board of higher education in addition to the evaluation fee and the evaluators' expenses. (9) Evaluators will be provided an orientation prior to conducting reviews.

Annually, each approved institution shall submit two copies of a report to the board reviewing the status of the institution's criminal justice and law enforcement program(s). This report shall certify that the criminal justice program is being maintained and operated in accordance with the provisions and guidelines set forth by the board of higher education for criminal justice and law enforcement programs. If, at any time, in the judgment of the board staff, there is a reasonable probability of non-compliance with the board's guidelines by a particular institution, the board may review said institution to determine if continued approval of said institution is proper.

An institution that objects to an adverse decision may appeal the board's determination. Said appeal shall be heard by a review panel appointed by the board of higher education and the findings and recommendations of the panel will be received by the board.

With the implementation of the guidelines for criminal justice and law enforcement programs, as approved by the board of higher education, said board shall certify career incentive pay increases only for graduates of New England Association of School and Colleges-accredited or board-approved law schools who have passed the Massachusetts bar examination.

Career incentive bonuses authorized by this section for degrees attained from programs approved by the board of higher education shall be granted annually in the following manner: \$6,000 for an associate's degree; \$7,500 for a baccalaureate degree; and \$8,500 for a master's degree or a law degree. If such a police officer or member of the department of state police appointed under section 10 of chapter 22C earned at least forty semester hour credits in courses leading towards a degree in law enforcement or any course or degree program approved by the board of higher education prior to July 1, 1976, they shall be entitled to a career incentive annual bonus of \$5,500.

Any city or town which accepts the provisions of this section and provides annual career incentive bonus payments for police officers shall be reimbursed by the commonwealth for one half the cost of such payments upon certification by the board of higher education. A city or town which accepts the provisions of this section after August 1, 2002, however, and provides annual career incentive bonus payments for police officers, shall not be reimbursed by the commonwealth for those payments for any fiscal year before 2006. The board of higher education shall certify the amount of such reimbursement to be paid to such city or town police department of similar rank. Said information shall be filed with said board on or before September first of each year, on a form furnished by said board. The board of higher education shall also certify the amount of annual career incentive bonus payments to be allocated to the members of the department of state police appointed under section 10 of chapter 22C from information filed with said board on or before September first of each year by the colonel of state police. Said information shall be filed on a form to be furnished by the board of higher education.

Notwithstanding any provisions of this section to the contrary, for cities and towns which have accepted the provisions of this section prior to January 1, 2004, the commonwealth shall provide a 50 per cent reimbursement for the costs of approved career incentive base salary adjustments pursuant to the provisions of this section in effect on July 1, 2003. Police officers receiving career incentive base salary adjustments

prior to January 1, 2004 shall continue to receive such base salary adjustments as certified by said board, pursuant to the provisions of this section in effect prior to July 1, 2003.

#### **Medicaid Reimbursements for Charter School Students**

SECTION 209. Section 72 of chapter 44 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "commission" in line 59 the following words:— , charter school.

#### **EOEA Reorg 81**

SECTION 210. Section 13 of chapter 58, as so appearing, is hereby amended by striking out, in line 36, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation

#### **EOEA Reorg 82**

SECTION 211. Section 17C of said chapter 58, as so appearing, is hereby amended by striking out, in line 8, the words "metropolitan district commission and".

#### **Racing Distribution Payments to Host Communities**

SECTION 212. Section 18D of chapter 58 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the words "one quarter of one" in line 6 and inserting in place thereof the following figure:- .35.

#### **EOEA Reorg 83**

SECTION 213. Clause Forty-fourth of section 5 of chapter 59, as so appearing, is hereby amended by striking out, in lines 1191 to 1194, inclusive, the words "director of the division of water pollution control in the department of environmental management or the director of the air pollution control agency in the commonwealth, as the case may be," and inserting in place thereof the following words:- department of environmental protection.

#### **EOEA Reorg 84**

SECTION 214. Section 5D of said chapter 59, as so appearing, is hereby amended by striking out, in lines 17 and 18, and in line 34, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

#### **EOEA Reorg 85**

SECTION 215. Section 20A of said chapter 59, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "including the metropolitan district commission,".

#### **Reporting of Corporate Tax Information**

SECTION 216. Chapter 62C of the general laws is hereby amended by inserting after section 12 the following new section:-

Section 12B. (a) Each financial institution, insurance company, and publicly-traded corporation obligated to file both a report pursuant to the Securities and Exchange Act of 1934 and successor acts or Title 12 of the United States Code or section 7 of chapter 167 or section 26 of chapter 168 or section 18 of chapter 170 or section 22 of chapter 172 or section 25 of chapter 175 and a tax return pursuant to section 11 (a) or section 12 (a), (d), (e), or (f) of this chapter shall, on or before March 1 of each year, report to the state secretary certain information from such tax return on a form prepared by the state secretary.

Any entity which files a consolidated return shall report to the state secretary on a consolidated basis and shall list all entities so consolidated. Such form shall be treated as a report for the purposes of section 112 of chapter 156B, section 9 of chapter 181, and sections 7 and 8 of chapter 167 and as part of the annual report for purposes of section 26 of chapter 175.

An amended form shall be filed within thirty days of any relevant change to the return made by the taxpaying entity or ordered by the commissioner.

This section shall not apply to any financial institution, insurance company, or publicly-traded corporation which opts to take no deductions and no credits that would otherwise reduce said financial institution's, insurance company's, or publicly-traded corporation's tax liability.

(b) The forms prepared by the secretary shall be made available to the entities required to report under this section no later than January first of each year. Such form shall require the reporting of information from the return, schedule, and attachments relevant to calculation of tax liability and to the effect of apportionment rules, exemptions, deductions, and credits on the tax liability of entities subject to this reporting requirement. Said forms shall require information which includes, but which is not limited to, the following, as applicable: name of entity, street address of principal office; net and gross income and assets, including, where applicable, gross profit, taxable Massachusetts tangible property, taxable net worth, gross receipts or sales, net income, total net taxable income, income subject to apportionment, income taxable in Massachusetts, total net and gross direct premiums in or allocable to Massachusetts, taxable premiums, gross investment income, Massachusetts taxable investment income, net underwriting profit, admitted assets, total adjusted taxable income; each deduction, exemption, credit offset, adjustment or credit carryover which reduces income subject to taxation including to a negative level or otherwise affects tax liability; the percentage used, if any, to establish what portion of total net taxable income is apportioned to Massachusetts; the total Massachusetts excise or tax due; the total Massachusetts excise or tax paid; any excess tax credit or credits subject to carryover to future years; and its net income according to its books on its federal return. In no case may the secretary require the reporting of any information not required on the return, schedules, or attachments provided to the commissioner.

(c) Any financial institution, insurance company, or publicly traded corporation covered by this section which chooses to supplement the foregoing information with additional information from its tax return, may request, in writing of the state secretary that such financial institution, insurance company, or publicly-traded corporation be allowed to append to the form such additional information. Such permission shall not be unreasonably denied.

#### **Extension of Revenue Intercept Program to Housing Authorities 2**

SECTION 217. Subsection (b) of section 21 of chapter 62C of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "development", in line 104, the following words:- , a housing authority as defined by section 3 of chapter 121B or regional housing authority as defined in said chapter 121B.

#### **Disclosure of Tax Information**

SECTION 218. Subsection (b) of section 21 of chapter 62C of the General Laws is hereby amended by inserting after paragraph (20) the following new paragraph:-

(21) The full exercise of any of the activities required of either the commissioner or the state secretary by section twelve B of this chapter.

#### **Taxpayer Returns Corrections 1**

SECTION 219. Section 26 of chapter 62C of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:

(c) In the case of an arithmetic or clerical error or other obvious error, including any exclusion of taxable unemployment compensation or Massachusetts state lottery winnings, apparent either upon the face of the return or from a comparison of the return with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner from any third party source, the commissioner may assess a deficiency attributable to such error without giving notice to the person being assessed. The commissioner may make such corrections to errors found upon a taxpayer's return and to the amount shown as the tax assessed thereon, including an increase in tax due or a reduction in a refund claimed, as will cause the return to conform with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner by any third-party. Concurrently with the making of such corrections, the commissioner shall notify the taxpayer in writing of the changes made to the return. If within 30 days after the date of such notice, or within any extended period permitted by the commissioner, the taxpayer fails to challenge the corrections, the return as corrected shall constitute the taxpayer's amended self-assessed return and the commissioner shall not be required to assess the corrected tax, nor to provide the taxpayer with a notice of intention to assess, nor otherwise to send any notice of the corrected tax liability to the taxpayer. Any taxpayer that disagrees with corrections made by the commissioner's corrections under this subsection shall challenge them in writing within 30 days after the date of the commissioner's notice, or within any extended period permitted by the commissioner. Once so challenged, the commissioner shall be required to assess any additional tax not shown on the original return in accordance with subsection (b) and shall comply with subsection (e) of section 32 if the commissioner's initial corrections to the return resulted in the reduction or elimination of a refund claimed on the return by the taxpayer.

#### **Substantiation of Tax Abatement Applications - Interest Savings**

SECTION 220. Section 37 of chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The applicant shall, at the time of filing its abatement application, include and attach to it all supporting information, documents, explanations, arguments and authorities that will enable the commissioner to determine whether the applicant is entitled to the abatement requested. The applicant shall not be considered to have submitted a completed written abatement application until the date on which all such information reasonably requested from the applicant and reasonably necessary for a decision has been furnished to the commissioner. If the commissioner has made a written request to the applicant for additional information, not then contained in the taxpayer's pending abatement application, and the applicant fails to provide such information within 30 days after such request, or within any extended period allowed by the commissioner, that application shall be considered incomplete and shall be denied without prejudice to its timely renewal. The commissioner shall give such applicant written notice that the denial is based upon the lack of a complete abatement application. No appeal from such denial shall be permitted either to the appellate tax board or to any probate court under section 39.

#### **The Administrative Appeal Process for Assessments**

SECTION 221. Said section 37 of said chapter 62C, as so appearing, is hereby amended by inserting, after the words "his application", in line 15, the following:- if and only if the applicant has not already had a pre-assessment hearing pursuant to the provisions of section 26(b) of this chapter, unless the applicant first establishes to the satisfaction of the commissioner that a further hearing is necessary either due to the availability of new factual information or new legal precedent not available to the applicant at the time of the section 26(b) hearing.

#### **Interest Due Upon Refunds**

SECTION 222. Section 40 of said chapter 62C is hereby amended by striking out, in lines 6 and 7 as so appearing, the words "established under section thirty-two of this chapter" and inserting in place thereof the following words:- of the federal short-term rate determined under section 6621(b) of the Internal Revenue Code, as amended and in effect for the taxable year, plus 2 percentage points, computed as simple interest.

#### **Overpayment Date Definition and Interest Due Upon Late-Filed Returns**

SECTION 223. Subsection (a) of said section 40 of said chapter 62C, as so appearing, is hereby amended by inserting, at the end thereof, the following paragraphs:-

For purposes of this section, the term "date of overpayment" shall mean the later of the date when the commissioner shall have received a properly completed return and full payment of the tax due thereon, or the date when the commissioner shall have received a completed and substantiated written application for abatement filed in accordance with this chapter.

The commissioner shall not refund any tax, interest, penalty or overpayment nor shall the state treasurer make any such refund where any taxpayer fails to file a return within three years of the due date of such return, without regard to extensions.

#### **Taxpayer Returns Corrections 2**

SECTION 224. Subsection (b) of section 40 of said chapter 62C, as so appearing, is hereby amended by inserting at the end of the concluding sentence the following:- as compared with the tax liability shown as a result of any corrections made to the return by the commissioner under section 26(c) using any records regarding that liability or the payment thereof which are maintained by the commissioner or which are furnished to the commissioner by any third-party.

#### **Set-Off Debt Collection 1**

SECTION 225. Section 1 of chapter 62D of the General Laws, as most recently amended by section 247 of chapter 184 of the acts of 2002, is hereby further amended by striking out the definition of "debt" and inserting in place thereof the following:—

"Debt", an unpaid spousal or child support obligation which is being enforced by the claimant agency, or which is collected or ordered to be collected by a court, whether or not there is an outstanding judgment for the sum; an amount owed the division of medical assistance by a debtor; an amount owed the department of transitional assistance by recipients, or former recipients, of public assistance; any liquidated sum due and owing to the corporation on an education loan made under any of the programs administered by the corporation in behalf of the commonwealth whether or not there is an outstanding judgment for that sum or any liquidated sum, certified by the comptroller as due and owing to any state agency, as defined in section 1 of chapter 29, any overdue debt certified by the comptroller as due or owing to a city or town of the commonwealth or any agency of the city or town or any housing authority or any state authority as defined in said section 1 of said chapter 29, or an amount owed the division of health care finance and policy on behalf of the uncompensated care pool by a person or a guarantor of a person who received free care services paid for in whole or in part by the uncompensated care pool or on whose behalf the uncompensated care pool paid for emergency bad debt, pursuant to subsection (m) of section 18 of chapter 118G.

#### **Set-Off Debt Collection 2**

SECTION 226. Said section 1 of said chapter 62D, as so appearing, is hereby further amended by striking out the definition of "debtor" and inserting in place thereof the following:—

"Debtor", any individual owing money for support payments to the claimant agency or to persons for whom the claimant agency is providing enforcement services under state and federal law; any individual owing money to the division of medical assistance for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E; any individual owing money to the division of employment and training; any individual owing money to the department of transitional assistance for overpayments of public assistance; any individual owing money on an education loan to the corporation or any individual or entity owing a debt as defined herein, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; or any individual owing the Uncompensated Care Trust Fund administered by the division of health care finance and policy for the cost of free care services or emergency bad debt paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

#### **Extension of Revenue Intercept Program to Housing Authorities 3**

SECTION 227. The definition of "Debt" in section 1 of said chapter 62D, as appearing in section 3 of chapter 9 of the acts of 2003, is hereby amended by inserting after the words "any agency of the city or town" the words:— , any housing authority,.

#### **Extension of Revenue Intercept Program to Housing Authorities 4**

SECTION 228. Clause (ix) of section 13 of chapter 62D of the General Laws, as appearing in section 6 of said chapter 9, is hereby amended by inserting after the words "agency of a city or town" the following words:— , to a housing authority.

#### **Allowable State Tax Revenues**

SECTION 229. Chapter 62F is hereby amended by striking out said chapter and inserting in place thereof the following new chapter:-

##### **Chapter 62F.**

Section 1. It is the intent of this chapter that there be established for each fiscal year a state tax revenue growth limit consistent with long term trend revenue growth to aid in stabilizing tax rates and state spending over economic cycles. Further, although not specifically required by anything contained in this chapter, it is assumed that from allowable state tax revenues as defined herein the Commonwealth will give priority attention to the funding of state financial assistance to local governmental units, obligations under the state governmental pension systems, and payment of principal and interest on debt and other obligations of the Commonwealth. Any other provisions of the general or special laws of the Commonwealth notwithstanding, the following provisions shall be effective.

Section 2. For the purposes of this chapter the following definitions apply:

"Allowable state tax revenues," for any fiscal year beginning after June 30, 2003, an amount equal to 101 per cent of amount of net state tax revenues which would be predicted by extrapolating from the linear trend of inflation-adjusted taxes in the three prior lowest points of

the economic cycle. For any fiscal year from 2004 until the first year in which inflation-adjusted taxes fall more than five per cent, the three prior lowest points of the economic cycle shall be considered to be inflation-adjusted taxes in fiscal years 1981, 1990, and 2002.

“Commissioner,” the Commissioner of Revenue as defined in section four (a) of chapter seven of the general laws.

“Above-trend state tax revenues,” the amount by which net state tax revenues, as defined herein, for a fiscal year exceed the allowable state tax revenues, as defined herein, for said fiscal year.

“Inflation-adjusted taxes,” for any fiscal year, net state tax revenues for that fiscal year divided by the ratio of the implicit price deflator for state and local government purchases for said fiscal year as reported by the bureau of economic analysis of the United States department of commerce or its successor agency to the implicit price deflator for the most recent period for which data is available.

“Local governmental unit,” any city, town, county, district or other political subdivision of the Commonwealth.

“Net state tax revenues,” state tax revenues, as defined herein, as decreased by the amount of state tax revenues abated or refunded.

“State tax revenues,” the revenues of the Commonwealth from every tax, surtax, receipt, penalty and other monetary exaction, and interest in connection therewith, including but not limited to, taxes and surtaxes on personal income, excises and taxes on retail sales and use, meals, motor vehicle fuels, businesses and corporations, public utilities, alcoholic beverages, tobacco, inheritances, estates, deeds, room occupancy and pari-mutuel wagering; but excluding federal reimbursements, proceeds from bond issues, earnings on investments, tuitions, fees, service charges and other departmental revenues. For the purposes of this chapter, revenues from taxes which are expendable without further legislative authorization, including but not limited to that portion of the sales tax revenues devoted to the Massachusetts Bay Transportation Authority, shall be considered state tax revenues.

Section 3. The governor and the general court in exercising their respective constitutional and statutory duties shall establish and approve a budget for the Commonwealth which relies an amount of tax revenue no greater than the allowable state tax revenues for that fiscal year.

Section 4 The commissioner shall annually, on or before January first prepare a report of the net state tax revenues and the allowable state tax revenues of the commonwealth for the preceding fiscal year and projected allowable state tax revenues for the current and following fiscal year, and shall submit the report to the secretary of administration and finance and the house and senate committees on ways and means.

Section 5. If net state tax revenues in any fiscal year exceed allowable state tax revenues for said fiscal year the amount of such above-trend state tax revenues, as determined by the commissioner pursuant to section five of this chapter, shall be subject to section 5C of chapter 29.

#### **Investment Tax Credit**

SECTION 230. Section 31A of chapter 63 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out paragraphs (k) and (l) and inserting in place thereof the following 2 paragraphs:—

(k) Paragraphs (a) and (f) shall not be available for the taxable years ending on or after December 31, 1993 but shall be available for the taxable years beginning on or after January 1, 2005.

(l) Paragraphs (i) and (j) shall be available only for the taxable years ending on or after December 31, 1993, but shall not be available for the taxable years beginning on or after January 1, 2005. A corporation shall not be eligible for this credit for more than 14 taxable years.

#### **Extension of Revenue Intercept Program to Housing Authorities 5**

SECTION 231. Section 17A of said chapter 66, as so appearing, is hereby amended by inserting after the word “section.”, in line 38, the following words:- The data from the records of the department of transitional assistance shall also be available to the department of housing and community development and to local housing authorities created pursuant to chapter 121B for the purpose of ascertaining or confirming any fraud or abuse by tenants of and applicants for state or federal housing assistance.

#### **EOEA Reorg 89**

SECTION 232. Section 17D of chapter 66, as so appearing, is hereby amended by striking out, in line 2, the words “fisheries, wildlife and recreational vehicles” and inserting in place thereof the following words:- conservation and recreation.

#### **Repealing Mandatory Pre-Employment TB Screening for Public School Personnel**

SECTION 233. Section 55B of chapter 71 of the General Laws is hereby repealed.

#### **Charter School Tuitions**

SECTION 234. Section 89 of chapter 71 of the General Laws is hereby amended by striking out, in lines 411 to 444, inclusive, as appearing in the 2000 Official Edition, clause (nn) and inserting in place thereof the following clause:-

(nn) Commonwealth charter schools shall be funded as follows. For any student attending a charter school, the commonwealth shall pay a tuition amount to the charter school equal to the lesser of: (1) the average operating cost per student in the district in which the student resides; and (2) the average operating cost per student in the district in which the charter school is located. The state treasurer is hereby authorized and directed to deduct said charter school tuition amount from the total education aid, as defined in said chapter 70, of the district in which the student resides prior to the distribution of said aid. In the case of a child residing in a municipality which belongs to a regional school district, the charter school tuition amount shall be deducted from said chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said excess amount. The state treasurer is hereby further authorized to disburse to the charter school an amount equal to each student's charter school tuition amount as defined above. The board of education shall adopt regulations for determining the average operating cost per student in calculating charter school tuition amounts for the

purpose of this subsection, and in adopting said regulations shall consult with the executive office for administration and finance and shall consider the actual cost per student, the variation in cost for different grade levels and different programs, the advisability of establishing a maximum amount for such average cost, and the impact on existing charter schools, other public schools in the district, and new charter schools.

#### **Health and Human Services Reorganization 5**

SECTION 235. Section 3 of chapter 71B of the General Laws is hereby amended by striking out, in lines 135 and 136, as so appearing, the words "division of health care finance and policy established by section 2 of chapter 118G" and inserting in place thereof the following words:- secretary of health and human services pursuant to 2A of chapter 118G.

#### **SPED Reimbursement Formula 1**

SECTION 236. Paragraph (b) of section 5A of chapter 71B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definitions "in-district programs" and "out-of-district programs".

#### **SPED Reimbursement Formula 2**

SECTION 237. Said section 5A of said chapter 71B, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:—

(c) Instructional costs eligible for reimbursement under said program shall be reported by a school district to the department in a form and manner as prescribed by the commissioner. For each such school district, the department shall review said report and approve those per pupil instructional costs that are eligible for reimbursement pursuant to said program within 30 days of submission. Based upon said approved costs, the department shall calculate the reimbursement due a municipality. The costs of programs shall be reimbursed at 75 per cent of all such approved costs that exceed 4 times the state average per pupil foundation budget, as defined in said chapter 70, for the current fiscal year.

#### **Special Education Circuit Breaker for Children Placed in District by the State**

SECTION 238. Subsection (c) of section 5A of chapter 71B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

Notwithstanding the foregoing, the reimbursement rate for students who have no father, mother, or guardian living in the commonwealth, and for any school age child placed in a school district other than a home town by, or under the auspices of, the department of transitional assistance or the department of social services, shall be 100 per cent of all the approved costs that exceed 4 times the state average per pupil foundation budget.

#### **University of Massachusetts Campus Missions**

SECTION 239. Section 1A of chapter 75 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting, in line 98, after the words "public higher education as a whole." the following new sentences:-

In developing its mission statements for the board of higher education, the university shall provide a clear indication of the different missions of its campuses and shall provide national benchmarks that demonstrate the campuses' success in competing with peer institutions. The chancellors of institutions with the potential to expand their mission, profile, and orientation to a more regional or national focus may develop in consultation with the board of trustees of the university a five-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Said plan shall include, but not be limited to, a three year retrospective description of performance and a five year plan for future goals.

#### **Expanding the Turnpike's Role in Central and Western Massachusetts 1**

SECTION 240. Paragraph (e) of section 4 of chapter 81A of the General Laws, as so appearing, is hereby amended by striking the entire paragraph and inserting in place thereof the following new paragraph:-

(e) to (i) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the turnpike or any part thereof; (ii) consistent with agreements entered into with the highway department to the extent applicable, own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the metropolitan highway system or any part thereof, as it may determine; and (iii) effective October 1, 2003, maintain, repair, use police, administer and operate interstate highway route 395, interstate highway route 84 and interstate highway route 291; provided, however, that the provisions of chapter 91 shall not apply to the authority, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;

#### **Expanding the Turnpike's Role in Central and Western Massachusetts 2**

SECTION 241. Paragraph (a) of section 10 of chapter 81A, as so appearing, is hereby amended by inserting in line 11, after the word "turnpike" the following:- as well as the costs of maintaining, repairing, using, policing, administering and operating interstate highway route 395, interstate highway route 84 and interstate highway route 291.

#### **Regulating the Turnpike Tourism Grant Program**

SECTION 242. Section 18 of chapter 81A of the General Laws, as so appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the words "one million dollars" and inserting in place thereof the following words:- \$500,000 nor more than \$1,000,000.

#### **Disposition of Operation of a Motor Vehicle Without a License as a Civil Infraction**



SECTION 243. Section 10 of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the first paragraph the following 2 paragraphs:- The court shall treat a first violation of the first paragraph of this section as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to any term of incarceration nor be entitled to appointed counsel pursuant to chapter 211. A person convicted of a first offense under the first paragraph of this section shall be punished by a fine of not less than \$500 nor more than \$1,000.

An adjudication of responsibility under the first paragraph of this section shall neither be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

#### **Increasing the Speeding Surcharge**

SECTION 244. Section 20 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the fourth paragraph, and inserting in its place the following paragraph:- There shall be a surcharge of \$50 on a fine assessed against any person convicted or found responsible of a violation of the provisions of section 17 or a violation of a special regulation lawfully made under the authority of section 18. The first \$25 of each surcharge shall be transferred by the registrar of motor vehicles to the state treasurer for deposit into the Head Injury Treatment Services Trust Fund. The remaining amount shall be transferred by the registrar of motor vehicles to the state treasurer for deposit in the General Fund.

#### **Additional Penalties for Failure to Register with Sex Offender Registry Board**

SECTION 245. Section 22 of said chapter 90, as so appearing, is hereby amended by inserting at the end thereof the following subsection:—

(j) Upon receipt of notice, as specified by the registrar, from the sex offender registry board, that a sex offender has failed to comply with the registration requirements of sections 178C through 178P of chapter 6, the registrar, shall suspend or prohibit issuance or renewal of a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration held by such a sex offender. The sex offender shall receive notice that the registrar shall suspend or prohibit renewal of such a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration in 90 days due to his failure to comply with the registration requirements of sections 178C through 178P of chapter 6, unless the sex offender furnishes proof to the registrar that he has complied with his sex offender registration requirements. A sex offender whose license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration has been suspended due to his failure to comply with the registration requirements of sections 178C through 178P of chapter 6 may petition for reinstatement of such license, learner's permit, right to operate a motor vehicle, or certificate of motor vehicle registration at any time if he can furnish sufficient proof as determined by the registrar that the sex offender is in compliance with his sex offender registration requirements. The registrar shall promulgate regulations to implement this section, which shall include the opportunity for a hearing to challenge the lack of sex offender registration compliance. If a hearing is requested, the sex offender registry board shall be notified of the time, place, date of hearing and the identity of the sex offender. An affidavit from the sex offender registry board may be introduced as prima facie evidence of the lack of sex offender registration compliance without the need for members or employees of the sex offender registry board to attend any hearings held under this section.

The registrar shall reinstate, issue or renew such license, learner's permit or right to operate a motor vehicle or allow the registration of a motor vehicle if the sex offender registry board provides to the registrar a notice, as specified by the registrar, stating that the sex offender is in compliance with the registration requirements of sections 178C through 178P of chapter 6 and such sex offender shall be assessed a \$100 sex offender registry reinstatement fee which shall be transmitted by the registrar to the treasurer for deposit into the general fund. Notices between the sex offender registry board and the registrar under this subsection may be made in any form, including electronic transmission.

#### **Increasing the DUI Surcharge**

SECTION 246. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of said chapter 90, as amended by section 2 of chapter 52 of the acts of 2002, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:- There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances under the provisions of this section; but \$125 of the \$250 collected under this assessment shall be deposited by the court with the treasurer into the Head Injury Treatment Services Trust Fund, and that the remaining amount of the assessment shall be credited to the General Fund. In the discretion of the court, an assessment under this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

#### **Establishing .08 Blood Alcohol Content as a Per Se Violation of the Drunk Driving Laws - I**

SECTION 247. Section 24 of chapter 90 of the General Laws, as appearing in the 2000 official edition, is hereby amended by striking out, in line 485-488, the words "and if such evidence is that such percentage was eight one-hundredths or more, there shall be a permissible inference that such defendant was under the influence of intoxicating liquor." and inserting in place thereof, the following:-

"in no instance shall a person operate a motor vehicle if such percentage was eight one-hundredths or more, or if such percentage was two one-hundredths or more if the individual is under the age of 21, and any person in violation thereof shall be punished by a fine or by imprisonment, or both fine and imprisonment, in accordance with that a court may order for a defendant convicted of a violation of subsection (1)(a)(1) or for a defendant previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation."

#### **Establishing .08 Blood Alcohol Content as a Per Se Violation of the Drunk Driving Laws - II**

SECTION 248. Said section 24, as so appearing, is hereby further amended by striking out in lines 512, and 515 the words “ one hundred and twenty” and inserting in place thereof, the following number:- “180”.

**Establishing .08 Blood Alcohol Content as a  
Per Se Violation of the Drunk Driving Laws - III**

SECTION 249. Said section 24, as so appearing, is hereby further amended by striking out, in lines 520 and 521, the words “one hundred and eighty days” and inserting in place therefore, the following: - “1 year”.

**Increasing the Negligent Driving Surcharge**

SECTION 250. Paragraph (a) of subdivision (2) of said section 24 of said chapter 90, as appearing in the 2000 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:- There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle negligently so that the lives or safety of the public might be endangered under the provisions of this section; but \$125 of the \$250 collected under this assessment shall be deposited by the court with the treasurer into the Head Injury Treatment Services Trust Fund, and that the remaining amount of said assessment shall be credited to the General Fund. At the discretion of the court, an assessment under this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigence for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

**Establishing .08 Blood Alcohol Content as a  
Per Se Violation of the Drunk Driving Laws - IV**

SECTION 251. Section 24N of said chapter 90 of the General Laws, as appearing in the 2000 official edition, is hereby amended by striking out, in line 36, the word “ninety” and inserting in place thereof the following number: - “60”.

**Establishing .08 Blood Alcohol Content as a  
Per Se Violation of the Drunk Driving Laws - V**

SECTION 252. Said section 24N of said chapter 90, as so appearing, is hereby further amended by striking out, in line 47, the words “one hundred twenty” and inserting in place thereof the following: - “180”.

**Establishing .08 Blood Alcohol Content as a  
Per Se Violation of the Drunk Driving Laws - VI**

SECTION 253. Said section 24N of said chapter 90, as so appearing, is hereby further amended by striking out, in line 52, the words “one hundred and eighty days” and inserting in place thereof the following words:- 1 year.

**License Reinstatement Fees**

SECTION 254. Section 33 of said chapter 90, as so appearing, is hereby amended by striking out paragraph 36 and inserting in place thereof the following paragraph:—

(36) For the reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under the provision of subsections (a), (e) and (f) of section 22, sections 22F, 23, 24, excepts as otherwise provided below, section 24B, 24D, 24G, 24L or section 34J, and section 28 of chapter 266, the fee shall be \$500. The fee for reinstatement following revocation under subparagraph (2) of paragraph (c) of subdivision (1) of said section 24 shall be \$700 and the fee for such reinstatement following a revocation under subparagraphs (3) and (3 ½) of said paragraph (c) of said subdivision (1) of said section 24 shall be \$1,200. The fee for reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under any general or special law of the commonwealth shall be \$100, but the fee for reinstatement for suspensions and revocation under subsection (c) of section 22 shall be commensurate with the fee established for the corresponding Massachusetts offense resulting in the suspension or revocation under the General Laws.

**Disposition of Operation of a Motor Vehicle Without Insurance as a Civil Infraction**

SECTION 255. Section 34J of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 7 and 8, the following words:- or by imprisonment for not more than one year in a house of correction, or both such fine and imprisonment.

and inserting the following paragraph at the end thereof:-

The court shall treat a violation of the first paragraph of this section as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to any term of incarceration nor be entitled to appointed counsel pursuant to chapter 211. An adjudication of responsibility under this section shall neither be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

**EOEA Reorg 87**

SECTION 256. Section 1 of chapter 90A, as so appearing, is hereby amended by striking out, in line 7, the words “the chairman of the metropolitan district commission” and inserting in place thereof the following words:- the commissioner of the department of conservation and recreation.

### **Fee to Appeal Civil Motor Infractions**

SECTION 257. The fourth paragraph of paragraph (14) of subsection (A) of section 3 of chapter 90C of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:— Any violator so appealing the decision of a magistrate shall be responsible for paying a fee of \$30 prior to the commencement of the appeal hearing before a justice.

### **EOEA Reorg 88**

SECTION 258. Section 1 of chapter 91, as so appearing, is hereby amended by inserting after the word “eleven”, in line 8, the following words:- A,.

### **EOEA Reorg 89**

SECTION 259. Said section 1 of said chapter 91, as so appearing, is hereby amended by striking out, in lines 12 and 13, the words "department of environmental management" and inserting in place thereof the following words:- department of conservation and recreation.

### **EOEA Reorg 90**

SECTION 260. Section 3 of said chapter 91, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words ", except lands under the control of the metropolitan district commission,,".

### **EOEA Reorg 91**

SECTION 261. Section 10C of said chapter 91 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 24, the word “division” and inserting in place thereof the following word:- office.

### **EOEA Reorg 92**

SECTION 262. Section 9A of chapter 92 of the General Laws is hereby repealed.

### **EOEA Reorg 93**

SECTION 263. Section 33 of chapter 92 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Lands owned by the commonwealth and under the custody and control of the department of conservation and recreation for the purposes of exercise and recreation in Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull, Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester and Winthrop shall be known as the metropolitan parks district.

### **EOEA Reorg 94**

SECTION 264. Said Section 33 of said chapter 92 is hereby further amended by inserting after the third paragraph the following paragraph:-

The commissioner may enter into and issue agreements, licenses and permits for any and all recreational and other uses he deems compatible and consistent with the provisions of this section and chapter, and with the provisions of Article XCVII of the amendments to the constitution, provided such agreements, licenses and permits are for a period not exceeding 5 years.

### **EOEA Reorg 95**

SECTION 265. Section 34 of chapter 92 of the General Laws is hereby repealed.

### **EOEA Reorg 96**

SECTION 266. Section 34A of said chapter 92, as appearing in the 2000 Official Edition, is hereby further amended by striking out, in line 14, the word “commissioner” and inserting in place thereof the following word:- department.

### **EOEA Reorg 97**

SECTION 267. Section 34B of said chapter 92, as so appearing, is hereby further amended by inserting after the word “a”, in line 2, the following word:- metropolitan.

### **EOEA Reorg 98**

SECTION 268. Said section 34B of said chapter 92, as so appearing, is hereby further amended by striking out, in line 5, the word “commission” and inserting in place thereof the following words:- department within the metropolitan parks district. The metropolitan park rangers program will be under the direction of the chief park ranger established in section 7A of chapter 132A.

### **EOEA Reorg 99**

SECTION 269. Said section 34B of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 9 and 10, 16 and 21, and in lines 25 and 26, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

**EOEA Reorg 100**

SECTION 270. Said section 34B of said chapter 92, as so appearing, is hereby further amended by inserting, in each instance, before the word “park”, in lines 11, 15 and 23, the following word:- metropolitan.

**EOEA Reorg 101**

SECTION 271. Section 34C of said chapter 92 of the General Laws is hereby repealed.

**EOEA Reorg 102**

SECTION 272. Section 35 of said chapter 92, as appearing in the 2000 Official Edition, is hereby further amended by striking out, in line 3, the words “under its jurisdiction”.

**EOEA Reorg 103**

SECTION 273. Said section 35 of said chapter 92, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding section 20 of chapter 21A, the department shall preserve and protect the scenic and historic integrity of its roadways and boulevards. The department shall enter into no interagency or other agreement with a state or public agency or entity to transfer any lands, roadways or boulevards, bridges, facilities, personnel, equipment or material under its care, custody and control, or any of its statutory management and maintenance duties and responsibilities, without the express prior approval of the great and general court.

**EOEA Reorg 104**

SECTION 274. Section 35A of chapter 92 of the General Laws is hereby repealed.

**Traffic Rules on Boulevards and Parkways**

SECTION 275. Chapter 92 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 35 the following section:-

Section 35B. No person shall operate a truck, bus, camper, trailer, or mobile home or any vehicle with a seating capacity of more than 12 persons on any road, driveway, parkway, boulevard or bridge under the jurisdiction of the department of conservation and recreation within the metropolitan parks district which is restricted to pleasure vehicles only, provided that “pickup trucks,” so-called, having a gross vehicle weight of 5,000 pounds or less and a maximum overall height of 7 feet or less are permitted. Those vehicles which are prohibited may gain access to a destination situated in, or only accessible by the use of a restricted roadway, by entering from the nearest unrestricted roadway and exiting in the same manner; provided that in no case shall a person operate a vehicle having a gross vehicle weight in excess of ten tons upon any roadway under the control of the department of conservation and recreation in the metropolitan parks district without the express consent of the department. Any person violating this section shall be punished for each offense by a fine of not less than \$100 and not more than \$500.

**EOEA Reorg 105**

SECTION 276. Section 36 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2, 3 and 16, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

**EOEA Reorg 106**

SECTION 277. Said section 36 of said chapter 92, as so appearing, is hereby further amended by striking out the second and third sentences.

**EOEA Reorg 107**

SECTION 278. Section 37 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, the words:- “two following sections” and inserting in place thereof the following word:- section.

**EOEA Reorg 108**

SECTION 279. Said section 37 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 1 and 2, and in lines 19, 21 and 22, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

**EOEA Reorg 109**

SECTION 280. Said section 37 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 27 and 28, the words “any member of the commission or of its secretary” and inserting in place thereof the following words:- the commissioner of conservation and recreation.

**EOEA Reorg 110**

SECTION 281. Section 38 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 1, 7 and 14, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

**EOEA Reorg 111**

SECTION 282. Said section 38 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 10 and 13, the words “any member of the commission or of its secretary”, each time they appear, and inserting in place thereof, in each instance, the following words:- the commissioner of conservation and recreation.

**EOEA Reorg 112**

SECTION 283. Sections 39 and 40 of chapter 92 of the General Law are hereby repealed.

**EOEA Reorg 113**

SECTION 284. Section 48 of chapter 92 of the General Laws is hereby repealed.

**EOEA Reorg 114**

SECTION 285. Section 53 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 5, the word “system” and inserting in place thereof the following word:- district.

**EOEA Reorg 115**

SECTION 286. Sections 54, 55, 59A, 60, 64, 65 and 66 of chapter 92 of the General Laws are hereby repealed.

**EOEA Reorg 116**

SECTION 287. Section 74 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the word “twenty-five” and inserting in place thereof the following figure:- 5.

**EOEA Reorg 117**

SECTION 288. Section 74A of chapter 92 of the General Laws is hereby repealed.

**EOEA Reorg 118**

SECTION 289. Said chapter 92 is hereby amended by striking out section 75, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 75. The department may appoint from the office of environmental law enforcement a harbor master and assistant harbor masters who shall respectively have and exercise within the Charles river basin all the powers and authority which now appertain by law to the offices of harbor master and assistant harbor masters for the port of Boston appointed by the police commissioner of Boston. The department may require such further duties of these officers, consistent with the provisions of law, as the commission may deem expedient. The harbor master and assistant harbor masters appointed hereunder shall receive the pay which may be established for the grade or rank which they respectively hold in the office of environmental law enforcement.

**EOEA Reorg 119**

SECTION 290. Section 76 of chapter 92 of the General Laws is hereby repealed.

**EOEA Reorg 120**

SECTION 291. Section 76A of said chapter 92, as appearing in the 2000 Official Edition, is hereby further amended by striking out, in lines 17, 22 and 23, the word “commission” and inserting in place thereof, in each instance, the following words:- department of conservation and recreation.

**EOEA Reorg 121**

SECTION 292. Said section 76A of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the word “commission’s” and inserting in place thereof the following word:- department’s.

**EOEA Reorg 122**

SECTION 293. Said section 76A of said chapter 92, as so appearing, is hereby further amended by inserting after the word “department”, in lines 28 and 30, each time they appear, the following words:- of environmental protection.

**EOEA Reorg 123**

SECTION 294. Sections 79, 83, 84, 85 and 86 of said chapter 92 of the General Laws are hereby repealed.

#### **EOEA Reorg 124**

SECTION 295. Section 87 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1, 14, 16, 19, 20 and 21, the word "commission".

#### **EOEA Reorg 125**

SECTION 296. Section 88 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 1, 4 and 5, the word "commission" and inserting in place thereof, in each instance, the following word:- department

#### **EOEA Reorg 126**

SECTION 297. Sections 89, 90, 91, 92, 93 and 94 of said chapter 92 of the General Laws are hereby repealed.

#### **EOEA Reorg 127**

SECTION 298. Section 95 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out the word "commission" in lines 1, 5, 7, 10, and 11 and inserting in place thereof, in each instance, the following word:- department.

#### **EOEA Reorg 128**

SECTION 299. Section 95A of said chapter 92, as so appearing, is hereby further amended by inserting after the word "commission", in line 5, the following words:- and within the metropolitan parks district.

#### **EOEA Reorg 129**

SECTION 300. Section 95 of said chapter 92, as so appearing, is hereby further amended by inserting after the word "control", in line 5, the following words:- and within metropolitan districts.

#### **EOEA Reorg 130**

SECTION 301. Sections 96 to 101, inclusive, and 104 to 120, inclusive, of said chapter 92 of the General laws are hereby repealed.

#### **EOEA Reorg 131**

SECTION 302. The General Laws are hereby amended by inserting after chapter 92 the following chapter:-  
CHAPTER 92A ½. Watershed Management.

Section 1. As used in this chapter, the following words, unless the context clearly indicates otherwise, shall have the following meanings:-

"Advisory committee", the watershed system advisory committee for the appropriate watershed system.

"Alteration", draining, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or substantial expansion of any buildings or structures; the driving of pilings; the construction or reconstruction or paving of roads and other ways; the construction or reconstruction of utilities; the changing of run-off characteristics; the intercepting or diverting of ground waters, surface waters, reservoirs, tributaries, or aquifers; the installation or substantial expansion of drainage, sewage and water systems.

"Aquifer", a geological formation, group of formations, or part of a formation in the Wachusett watershed that is capable of yielding a significant amount of water to a well or spring, as determined by reference to maps generated by the Massachusetts geographic information service based on the United States Geological Survey water resource atlases or any other source determined to be more accurate pursuant to subsection (m) of section 107A. The land directly overlaying an aquifer shall be deemed to be a part of said aquifer.

"Authority", the Massachusetts Water Resources Authority.

"Bonds", any bonds, notes or other evidences of indebtedness.

"Bordering vegetated wetland", a wet meadow, except meadows used for the grazing of livestock, marsh, swamp, bog, or other area, hydrologically connected to and bordering on a tributary, reservoir, flood plain, or surface water, which supports at least 50 per cent wetland species.

"Department", the department of conservation and recreation.

"Division", the division of water supply protection.

"Flood plain", the land adjoining a tributary, reservoir or surface water, which is subject to inundation from a flood having a 1 per cent chance of being equalled or exceeded in any given year, commonly known as the 100 year flood plain, as determined by reference to the most recent edition of the flood hazard boundary maps issued by the Federal Emergency Management Agency or any other source determined to be more accurate pursuant to subsection (m) of section 107A.

"Ground water", water below the land surface in a saturated zone, including perched ground water.

"Hazardous material or waste", any material or waste, in whatever form, which because of its quantity, concentration, corrosivity, flammability, reactivity, toxicity, or infectious, chemical, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous material or waste shall include those materials listed in section 261 of title 40 of the code of federal regulations, or 310 CMR 40.900 Appendix I.

"Pollutant", any substance, man-made or resulting from human activities, that can alter the biological, chemical, physical, or radiological character of water.

"Quabbin watershed advisory committee", the committee established by section 114.

"Revenues", charges, reimbursements and other receipts derived by the division from operation of the watershed system and from all other activities or properties of the division including, without limiting the generality of the foregoing, proceeds of grants, gifts, investments, earnings and proceeds of insurance or condemnation.

"Surface water", water in the watersheds, including any lake, spring, impoundment, and pond, as determined by reference to the most recent edition of maps generated by the Massachusetts geographic information service based on the United States Geological Survey 1 to 25,000 scale quadrangle maps or any other map determined to be more accurate pursuant to subsection (m) of section 107A. Surface water shall include the land located thereunder and the banks thereto. Surface water shall exclude all reservoirs, tributaries, aquifers, ground waters, and man-made farm ponds used for irrigation, as well as all so-called great ponds of the commonwealth which do not drain into a tributary or a reservoir.

"Tributary", a body of running water, including, a river, stream, brook and creek, which moves in a definite channel in the ground due to a hydraulic gradient and which flows ultimately into a reservoir in the watersheds or the Ware river above the Ware river intake, as determined by reference to the most recent edition of maps generated by the Massachusetts geographic information service based on the United States Geological Survey one to 25,000 scale quadrangle maps or any other map determined to be more accurate pursuant to subsection (m) of section 107A. A tributary shall include the land over which the water therein runs and the banks thereto.

"Ware river watershed advisory committee", the committee established by section 114A.

"Watershed system", (i) all real and personal property interests held by or on behalf of the commonwealth immediately prior to the effective date of this act in and for the former metropolitan district commission water system which were part of or appurtenant to the Quabbin watershed, Quabbin reservoir, Ware river watershed, Wachusett watershed, Wachusett reservoir, North and South Sudbury watersheds, Sudbury reservoir, Framingham reservoirs 1, 2 and 3, Blue Hills reservoir, Bear Hill reservoir, Spot Pond reservoir, Fells reservoir, Weston reservoir, Norumbega reservoir, Chestnut Hill reservoir, including land, easements, buildings, structures, all equipment, machinery, vehicles, and appliances, improvements, water rights and rights in source of water supply and (ii) all enlargements and additions to the former metropolitan district commission water system acquired or constructed by the division for the purposes of the watershed system, including land, easements, buildings, structures, equipment, machinery, vehicles, and appliances, improvements, reservoirs, dams, water rights and rights in sources of water supply, but excluding the waterworks system of the authority.

"Watersheds", the natural basin from within which water drains or in natural course would drain into the Quabbin reservoir, the Wachusett reservoir, or the Ware river upstream of the Ware river intake.

Section 2. There shall be within the department a division of water supply protection which shall be subject to chapter 737 of the acts of 1972. The division shall construct, maintain and operate a system of watersheds, reservoirs, water rights and rights in sources of water supply, shall supply thereby a sufficient supply of pure water to the Massachusetts Water Resources Authority, and shall utilize and conserve said water and other natural resources in order to protect, preserve and enhance the environment of the commonwealth and to assure the availability of pure water for future generations. The division shall maintain a visitors' informational center at the Quabbin reservation.

The division of water supply protection shall be under the administrative supervision of a director, who shall be called the director of water supply protection. The director shall be responsible for the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission, and the watershed system formerly under the care, custody and control of the division of water resources of the department of environmental management.

Section 3. The division shall keep all bridges built by it across the reservoir upon the Nashua river safe, and shall have charge of, use, maintain and operate the same, and the commonwealth shall be exclusively responsible for all damages caused thereby or by any defect or want of repair therein. The department shall have the exclusive right and control over all ponds, reservoirs and other property within the watershed system, and may order all persons to keep from entering in, upon or over the waters thereof and the lands of the commonwealth or towns surrounding the same.

Section 4. The division shall have the exclusive right to and interest in hydroelectricity developed, generated, transmitted, distributed and sold as an incident to the operation of the watershed and waterworks systems, may undertake such projects for such purposes and may authorize or contract with any other person otherwise lawfully qualified for such person to perform on reasonable terms and conditions such activities on behalf of or by arrangement with the division. The division may by lease, license or permit or on its own behalf provide for the installation and operation of electric and telecommunications transmission facilities within said systems, provided that such facilities shall not interfere with the proper operation of said systems and that no lease, license or permit for such purpose shall be made for a term of more than 40 years. Subject to contractual requirements or other legal obligations in force on the effective date of this act, the division shall permit use of water in reservoirs for hydroelectric generation only when and to the extent that water is otherwise subject to release for reasons of sound management of the reservoirs for watershed, waterworks and stream flow purposes. All revenues derived from the activities authorized herein shall annually be remitted by the division to the state treasurer who shall deposit said revenues into the general fund.

Section 5. (a) Any alteration, or the generation, storage, disposal, or discharge of pollutants is prohibited within those portions of the watersheds that lie within 200 feet of the bank of a tributary or surface waters or within 400 feet of the bank of a reservoir.

(b) (1) The uses and activities set forth in paragraph (2) are prohibited within those portions of the watersheds that lie:

- (i) within the area between 200 and 400 feet of the bank of a tributary or surface waters;
- (ii) within the flood plain of a tributary or waters, including that flood plain;
- (iii) within bordering vegetated wetlands that border on tributaries or surface waters, or reservoirs;
- (iv) within land that overlays an aquifer with a potential well yield of 100 gallons per minute or more as determined pursuant to subsection (m); or

(v) within land that overlays an aquifer with a potential well yield of one or more but less than 100 gallons per minute pursuant to a finding by the division, in consultation with the department of environmental protection, that regulation of the aquifer is necessary for the protection of the quality of the water in the surface waters, aquifers, reservoirs or the tributaries.

(2) The following uses are prohibited within the area regulated by paragraph (1):

(i) the disposal of pollutants from either private or publicly owned sewage treatment facilities;

(ii) the placement of the leaching field of a subsurface waste water disposal system less than 4 feet above the maximum water table level as measured at the time of annual high water;

(iii) the storage of liquid petroleum products of any kind; provided, however, that an end user of such product, such as a resident in connection with normal residential use or a person responsible for supplying heat to a residence, may store a reasonable volume of such material so long as such storage is in a free standing container inside of a structure, which structure shall include at a minimum a foundation thereof with a poured cement slab floor or a concrete reservoir of sufficient volume to hold 125 per cent of the tank's capacity;

(iv) the treatment, disposal, use, generation, or storage of hazardous material or waste, except a reasonable volume of hazardous material or waste, incidental to normal residential use;

(v) the storage and the disposal of solid waste other than a reasonable volume incidental to normal residential use;

(vi) the outdoor storage of road salt or other deicing chemicals; provided, however, that this section shall not prohibit the outdoor storage of sand, gravel, or materials used in road construction which are not hazardous materials or waste;

(vii) the outdoor storage of fertilizers, herbicides, and pesticides;

(viii) the use or storage of pesticides or herbicides which carry a mobility rating as provided for by the United States environmental protection agency or which have been determined by the commonwealth using environmental protection agency standards to pose a threat or potential threat to ground water;

(ix) the outdoor uncovered storage of manure;

(x) the servicing, washing, or repairing of boats or motor vehicles other than as reasonably incidental to normal residential use;

(xi) the operation of junk and salvage yards;

(xii) the rendering impervious of more than ten percent of any lot or 2500 square feet, whichever is greater;

(xiii) the excavation of gravel and sand to a depth greater than 6 feet above the maximum water table, except where incidental to the construction of permitted structures;

(xiv) the altering of bordering vegetated wetlands;

(xv) any other activity which could degrade the quality of the water in the watersheds as determined by the division after consultation with the department of environmental protection; provided, however, that de-icing may be performed on a roadway under procedures approved by the secretary of environmental affairs.

(c) This section shall not apply to uses, structures or facilities lawfully in existence or for which all applicable municipal, state and federal permits and approvals, other than building permits and permits for septic systems, have been obtained prior to July 1, 1992. This section shall not apply to any reconstruction, extension, or structural change to any structure in lawful existence as of said date; provided, however, that such reconstruction, extension, or structural change (i) does not constitute a substantial change to or enlargement of that lawfully existing structure, and (ii) does not degrade the quality of the water in the watershed.

(d) In addition to and without limiting subsection (a) or subsection (b), the construction of a dwelling on land set forth in subsection (b) which exceeds a density of 2 bedrooms per acre is prohibited. No use may generate more than 220 gallons of sanitary sewage per acre per day. In making such calculations all contiguous real property within the area regulated by said subsection (a) or said subsection (b) owned by the same person shall be used in the aggregate to determine the total acreage for density purposes; provided, however, that said area may be so used for determining area density for only 1 parcel.

(e) In addition to and without limiting subsection (a), (b) or (d), the construction of any dwelling which exceeds a density of 1 1/3 bedrooms per acre is prohibited within those portions of the watersheds that overlay aquifers with potential well yields of between 100 and 300 gallons per minute as determined pursuant to subsection (m) or land whose regulation has been determined to be necessary for the protection of the quality of the water in the surface waters, aquifers, reservoirs and tributaries pursuant to clause (v) of paragraph (1) of subsection (b). No use may generate more than 147 gallons of sanitary sewage per acre per day.

(f) In addition to and without limiting subsection (a), (b), (d), or (e), the construction of any dwelling which exceeds a density of 1 bedroom per acre is prohibited within those portions of the watersheds that overlay aquifers with potential well yields of over 300 gallons per minute as determined pursuant to subsection (m). No use may generate more than 110 gallons of sanitary sewage per acre per day.

(g) Nothing in subsection (d), (e) or (f) shall be deemed to limit such construction if a sewer system exists prior to July 1, 1992 to which a direct connection shall be made without expansion of capacity and the connection is used for all sanitary sewage of any dwelling or other structure resulting from the construction.

(h) Nothing in this section shall prevent the construction of 1 single family dwelling, on any lot existing as such prior to July 1, 1992 within the areas regulated by this section. Nothing in this section shall prevent any owner occupied lot existing as such on July 1, 1992 from being subdivided into 1 additional lot. Wherever possible there shall be no alterations within the area regulated by subsection (a).

(i) Subsequent to the issuance of regulations as provided for in this section, any person owning an interest in real property located in a community with land that lies within the watersheds, by written request may submit to the division the determination of a land surveyor registered with the board of registration of professional engineers and of land surveyors as to whether such owner's real property interests are located within areas regulated by this section. The division shall have been deemed to have concurred with the determination unless within 60 days from the submission of the determination the division issues a written notice of denial to the owner. The division shall issue regulations pursuant to



section 108 regarding such submissions and any requirements thereto. All surveys and additional materials or studies required to make a determination, whether or not requested by the division, shall be prepared and delivered at the sole cost of the person desiring the determination.

(j) A tributary or portions thereof may be exempted from the provisions of this section, if after taking into account the rate of flow, slope, soil characteristics, proximity to a reservoir or the Ware river above the Ware river intake, the current level of water quality and the current degree of development, the division, in consultation with the department of environmental protection, determines that such exemption poses no significant risk to the quality of the water.

(k) The division, after consultation with the department of environmental protection, shall issue regulations pursuant to section 108 for appealing the inclusion of a location in the areas regulated by this section. It shall be the responsibility of the appellant to prove that the location was improperly included. If the appeal is decided in the appellant's favor, a court of competent jurisdiction shall award to appellant reasonable attorney fees, costs and expenses incurred in the action.

(l) The division, in accordance with procedures for notice and a hearing as provided by chapter 30 A, may grant upon appeal or petition with respect to particular uses or structures, and shall grant upon request with respect to crossings of tributaries and bordering vegetated wetlands a variance from the provisions of this section where the division specifically finds that owing to circumstances relating to the soil conditions, slope, or topography of the land affected by such uses or structures, desirable relief may be granted without substantial detriment to the public good and without impairing the quality of water in the watersheds. The division shall issue regulations pursuant to section 108 regarding such proceedings. The division may impose reasonable conditions, safeguards and limitations to any variance as it may find desirable in its sole discretion which, based upon such hearing record, are necessary to protect the water in the watersheds. The division shall issue regulations pursuant to section 108 regarding such proceedings. The division may impose reasonable conditions, safeguards and limitations to any variance as it may find desirable in its sole discretion which, based upon such hearing record are necessary to protect the water in the watersheds. The division shall record and index in the grantor index in the registry of deeds or register in the registry district of the land court for the county or district where the land lies, a notice of said variance, and conditions thereto, which notice shall describe the land by metes and bounds or by reference to a recorded or registered plan showing its boundaries.

(m) The location of tributaries and surface waters shall be determined by reference to maps generated by the Massachusetts geographic information service based on the most recent edition of the United States Geological Survey 1 to 25,000 thousand scale quadrangle maps. The location of flood plains shall be determined by reference to the most recent edition of the flood hazard boundary maps issued by the director of the Federal Emergency Management Agency. The location and the potential well yield of aquifers shall be determined by reference to maps generated by the Massachusetts geographic information service based on the United States Geological Survey water resource atlases. The division, in consultation with the department of environmental protection, may adopt more accurate maps pursuant to notice and a public hearing as provided in chapter 30A and shall file such more accurate maps with the clerks of the house of representatives and the senate 90 days prior to such maps taking effect.

(n) This section shall not apply to the division in the performance of its responsibilities and duties to protect the quality of the water in the watersheds, or to the Authority in the performance of its responsibilities and duties to maintain, operate and improve the waterworks system. The provisions of this section shall not apply to activities relating to normal maintenance or improvement of land in agricultural use as defined in section 40 of chapter 131, or regulations promulgated thereunder; provided, however, that such activities do not impair the quality of the water. Nothing in this section shall be construed to limit conversion of land for agricultural use, or preparation of land for agricultural use; provided, however, that such conversion shall be made under a plan approved by the United States Department of Agriculture Soil Conservation Service and the department in consultation with the department of food and agriculture. This section shall not apply to the maintenance, repair, replacement or reconstruction of public roadways existing as of September 1, 1989 or railroad track and rail bed existing as of September 1 1990, including associated drainage systems, that are necessary to preserve or restore the facility's serviceability for the number of travel lanes and uses existing as of September 1, 1990; provided, however, that in the case of any replacement the design is substantially the functional equivalent of, and is of similar alignments to that which is being replaced; provided, further, that design plans and specifications for said work on roadways, or railroad track and rail beds are provided to the division prior to the work's commencement. This section shall not apply to the construction of public highways, railroad track and rail beds and facilities directly related to their operation; and provided, further, that the secretary of environmental affairs has determined that such highway or transportation service construction project requires direct access to or location in the lands set forth in this section and that said secretary and the division have determined that the construction does not materially impair the quality of the water in the watershed and does not otherwise materially impair the quality of the environment. This section shall not apply to the maintenance, repair or expansion of lawfully located structures or facilities used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services; provided, however, that such maintenance, repair or expansion activities, structures, or facilities do not materially impair the quality of water in the watersheds as determined by the division after consultation with the department of environmental protection. This section shall not apply to the maintaining, repairing or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services in bordering vegetated wetlands; provided, however, that such maintenance and repair activities do not materially impair the quality of water in the watersheds. Nothing herein shall limit the ability of a person, municipality, the United States government or the commonwealth to undertake temporary operations to clean up, prevent or mitigate releases of hazardous materials or wastes. This section shall not be construed to limit changes in agricultural crops produced. Nothing in this section shall be construed to limit the use of new or existing agricultural technologies that do not degrade the quality of the water in the watersheds more than the present agricultural technologies that such new or existing agricultural technologies replace.

(o) Upon written request by the division, the department of environmental protection shall have the authority, including the authority to render administrative penalties under section 16 of chapter 21A, to enforce the provisions of this section for violations thereof.

(p) The duties and obligations imposed by this chapter shall be in addition to all other duties and obligations imposed by any other general or special law or regulation.

(q) The division shall hold in at least 1/2 of the communities in the affected watersheds an informational public hearing, giving notice thereof at least 30 days prior thereto by advertisement in newspapers of general circulation in each such community and by written notification to the boards of selectmen, city councils, or town councils, whichever is appropriate, in each such community. The division, at the time of such hearing, shall make available maps showing the areas affected by this section and shall explain the provisions of this section and the impact this section will have on the affected communities and landowners.

(r) Nothing in this section shall impede or prevent the construction of a new municipal sewer system or new municipal water system if the division determines that water quality will not be adversely impacted from the construction and provided that such new systems comply with all existing regulations and standards applicable to water pollution abatement projects.

Section 6. The division after consultation with the department of environmental protection, shall make rules and regulations by July 1, 1992 and from time to time thereafter for the protection of the watersheds and the watershed system. The regulations shall include provisions that require notice to the department and the division of applications for variances for uses or structures that affect the watersheds. Notice of hearings on the proposed regulations shall be sent to the chief executive officer of all cities and towns within the watersheds and any other cities and towns affected by such regulations. The division shall file copies of the regulations promulgated in accordance with this section with the clerk of the house of representatives and the clerk of the senate and send copies to the chief executive officer of all the cities and towns within the watersheds and any other cities and towns affected by such regulations. The regulations shall not take effect until 60 days have elapsed from the time of said filing. The division shall cause such rules and regulations to be posted at or near the waters to which they respectively apply, and shall also cause the same to be published at least once in a newspaper published in the county where said waters are in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of any senior member of the department of such posting and publication, or of the posting or publication of an order made by the department, shall be prima facie evidence of the posting and publication. A copy of any such rule, regulation or order, attested by any senior member of the department, shall be prima facie evidence that said rule, regulation or order was made by department or by the commissioner, as the case may be.

Section 7. No person shall take or divert any water of the watershed system of the division, and no person shall corrupt, render impure, waste or improperly use any such water.

Section 8. The department, and its employees designated for the purpose, shall enforce sections 1 to 7, inclusive, and the rules, regulations and orders made thereunder, and may enter into any building, and upon any land for the purpose of ascertaining whether sources of pollution there exist, and whether the sections and the rules, regulations and orders made as aforesaid are complied with.

Section 9. Any person who without lawful authority takes or diverts any water from any water supply within the watershed system of the division, or who corrupts or defiles any such water supply, or any source of such water supply, or who injures, destroys or interferes with any property held or used by the authority for the purpose of constructing, operating or maintaining the watershed system, or who violates or refuses to comply with any rule, regulation or order of the department shall be subject to a criminal fine of not more than 50,000 dollars or imprisonment for not more than 1 year; provided, however, that in cases of continuing violation, such maximum fine may be 10,000 dollars per day for each day such violation occurs or continues. Notwithstanding any limitation on criminal penalties set forth in the preceding sentence, any person convicted of the wanton or malicious destruction of or injury to any property used in the construction, operation or maintenance of the watershed system shall also be liable in tort to the department for triple the amount of damages thereby caused. Any such fine or tort judgment shall be payable to the treasury of the commonwealth.

Section 10. The supreme judicial or superior court or any justice of either court shall, on petition of the department or of any town or person interested, have jurisdiction in equity or otherwise to enforce sections 1 to 9, inclusive, and any rule, regulation or order made thereunder, and to prevent any violation of said sections, rules, regulations or orders.

Section 11. The department shall assess the Massachusetts Water Resources Authority for the fiscal year costs of operating the division and other authorized charges, including 100 per cent of the amounts to be paid in that fiscal year in trust by the authority to the division for application to payments in lieu of taxes pursuant to chapter 59, less any and all revenues generated by the division which shall include, but not be limited to, the sale of hydroelectricity, recreational or permit fees, revenues from the sale of wood products harvested on department watershed lands, and any access fees established pursuant to chapter 436 of the acts of 1990. The assessment shall be established annually by the commissioner of the department. The commissioner of the department shall certify to the executive director of the authority on or before September 15, the current fiscal year obligations due by the authority for the operations of said division. The commissioner shall bill the treasurer of the authority on October 1, January 1, April 1 and June 30 of each fiscal year for said fiscal year's obligations. Within 30 days of receipt of the department bill, the treasurer of the authority shall remit the total billed amount to the commission. Revenues received from the June 30 billing shall be credited to that fiscal year. The commissioner of the department shall forward to the treasurer of the commonwealth the revenues generated by the division which shall be credited to the General Fund.

Section 12. The treasurer of the commonwealth shall charge the Massachusetts Water Resources Authority for the debt service costs of bonds issued pursuant to section 3 of chapter 564 of the acts of 1987 and sections 12 and 13 of

chapter 36 of the acts of 1992 for the acquisition of fee simple, development and other rights or interests inland in the areas regulated by the division. The revenue shall be deposited into the Watershed Management Fund for the purposes of meeting said debt service costs, subject to appropriation, for said bonds pursuant to the provisions of section 2T of chapter 29. The comptroller shall transfer to the general fund those payments received from the Massachusetts Water Resources Authority as reimbursement for debt service payments charged to the General Fund.

Section 13. The commissioner shall establish the Quabbin watershed advisory committee. The purpose of the committee shall be to advise the division on its policies and regulations regarding fishing, boating and other recreational activities and environmental, wildlife and habitat matters within the Quabbin watershed. The commissioner of the department shall appoint to the advisory committee 1 person from 3 names nominated by each of the following organizations: the Massachusetts Council of Sportsmen, the Trout Unlimited, the Quabbin Fisherman's Association, the Worcester County League of Sportsmen, the North Worcester County Quabbin Anglers, the Massachusetts Audubon Society, the Swift River Valley Historical Society, the Massachusetts Wildlife Federation, the New England Sierra Club, and the Friends of Quabbin, Inc.

The commissioner shall also appoint 1 member from the general public. The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year, and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 14. The commissioner shall establish a Ware river watershed advisory committee. The purpose of the committee shall be to advise the division on its policies and regulations regarding recreational activities, land use and environmental, wildlife and habitat matters within the Ware river watershed. The commissioner of the department shall appoint to the advisory committee 1 person from 3 names nominated by each of the following organizations: the Massachusetts Council of Sportsmen, the Worcester County League of Sportsmen, Trout Unlimited, a rod and gun club located in the town of Barre, Hubbardston, Oakham or Rutland, a designee of the board of selectmen of each of the towns of Barre, Hubbardston, Oakham and Rutland, a representative of the historical societies in each of the towns of Barre, Hubbardston, Oakham and Rutland, a representative of the Massachusetts Wildlife Federation, a representative of the Massachusetts Audubon Society, a representative of the Sierra Club, and a representative of the Upper Ware river watershed association and 1 member from the general public.

The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 15. The commissioner shall establish a watershed system advisory committee to advise the division on its policies and regulations regarding fishing, boating, and recreational activities and other environmental and wildlife matters in all of the watershed system areas under the control of the division, exclusive of the Quabbin watershed and the Ware river watershed. The committee shall consist of 9 members, the qualifications of whom shall be determined by regulation by the commissioner. The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year, and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 16. The commissioner shall at least once every 5 years, adopt after public hearing one or more periodic watershed management plans for the watershed system, which shall have been prepared with the participation of a professionally qualified forester and the appropriate watershed advisory committee. Any watershed management plan shall provide for, but need not be limited to, forestry, water yield enhancement and recreational activities. All forestry activities shall be subject to sections 40 to 46, inclusive, of chapter 132 of the General Laws.

Section 17. The department, on behalf of the commonwealth, may take by eminent domain under chapter 79, or acquire by purchase or otherwise, lands in fee, easements, rights and other property that it deems necessary or desirable for carrying out the powers and duties conferred upon it by the provisions of this chapter relative to the construction, maintenance and operation of the watershed system.

Section 18. The division shall be deemed to be a public entity under section 26A of chapter 21 and shall be eligible for grants and other assistance under the Massachusetts Clean Water Act and other program of federal or state assistance for water supply, or related purposes.

Section 19. The department shall have over the property of the watershed system all the general power and authority, which it has over reservations so far as the same may be exercised consistently with the purposes for which the watershed system is maintained.

Section 20. The division shall not contract for services exclusive of contracts pursuant to any general or special act relating to forest cutting practices and for consultants performing only those services for the division which regular employees of the division are unable to perform, to accomplish any of its duties nor shall it enter into any interagency agreement for such purpose. Only officers and employees of the division shall perform its duties.

#### **EOEA Reorg 132**

SECTION 303. Section 1 of chapter 92B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 5 and 6, the definitions of "Commission" and "Commissioner" and inserting in place thereof the following definition:- "Commissioner", the commissioner of the department of conservation and recreation.

### **EOEA Reorg 133**

SECTION 304. Said section 1 of said chapter 92B, as so appearing, is hereby further amended by inserting after the definition of "Corporation", in line 7, the following definition:- "Department", the department of conservation and recreation.

#### **Antitrust Enforcement Fund Repeal**

SECTION 305. Section 14 of chapter 93 of the General Laws is hereby repealed.

#### **Repealing Antiquated Laws Pertaining to Public Health**

SECTION 306. Section 1 of chapter 94 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out lines 5 through 15, inclusive.

#### **Repealing Antiquated Laws Pertaining to Public Health**

SECTION 307. Section 1 of said chapter 94 is hereby further amended by striking out lines 16 through 18, inclusive, and inserting in place thereof the following clause:- "Cold storage," the storage of food at or below a temperature of 41 degrees Fahrenheit for a period of 30 days or more.

#### **Repealing Antiquated Laws Pertaining to Public Health**

SECTION 308. Section 1 of said chapter 94 is hereby further amended by striking out lines 19 through 23, inclusive, and inserting in place thereof the following clause:- "Cold storage or refrigerating warehouse," an establishment employing refrigerating machinery where food is stored for 30 days or more at or below a temperature of 41 degrees Fahrenheit.

#### **Repealing Antiquated Laws Pertaining to Public Health**

SECTION 309. Sections 2, 3, 4, 5, 6, 7, 8, 9, 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H, 9I, 9J, 9K, 9L, 9M, 10 and 305E of chapter 94 are hereby repealed.

#### **Repealing Antiquated Laws Pertaining to Public Health**

SECTION 310. Sections 66, 66A, 67, 68, 69, 70, 71, 72, 73 and 73A of said chapter 94 are hereby repealed.

#### **Repealing Antiquated Laws Pertaining to Public Health**

SECTION 311. Section 305C of said chapter 94 is hereby amended by inserting after the word "department", in line 1, the following words:- of public health, hereinafter called the department; and by inserting after the word "warehouse", in line 5, the following words:- or cold storage or refrigerating warehouse.; by striking out, in line 9, the words "sixty-six"; and by inserting after the word "commissioner", in line 38, the following words:- of the department of public health.

#### **Codifying the Hepatitis C Program at DPH**

SECTION 312. Chapter 111 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 4L the following new section:-

Section 4M. (a) The department shall, subject to appropriation, establish and maintain a program to mitigate the impacts of hepatitis C. The program shall provide screening, information, education and treatment components, and may include research grants. The program shall increase public awareness of hepatitis C and such efforts shall be undertaken in multiple languages and in a culturally appropriate manner. The program shall provide information to health care providers about risks, available prevention methods, and treatment options for hepatitis C.

(b) The program, to the extent the department determines feasible and appropriate, shall be integrated with substance abuse, HIV/AIDS and sexually transmitted disease service programs.

(c) The department may accept for the purposes of the program any special grant of money, services or property from the federal government or any of its agencies or from any foundation, medical school or other organization.

### **EOEA Reorg 134**

SECTION 313. Section 20 of chapter 111, as so appearing, is hereby amended by striking out, in line 5, the words "the metropolitan district commission or".

#### **Health and Human Services Reorganization 6**

SECTION 314. Section 72N of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 33, the words "division of health care finance and policy" and inserting in place thereof the following words:- executive office of health and human services.

#### **Health and Human Services Reorganization 7**

SECTION 315. The fifth paragraph of section 72Y of said chapter 111, as appearing in section 91 of chapter 184 of the acts of 2002, is hereby amended by striking out the words "division of health care finance and policy" and inserting in place thereof the following words:- executive office of health and human services.

#### **EOEA Reorg 135**

SECTION 316. Section 174A of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 16 and 17, the words "fisheries, wildlife and recreational vehicles" and inserting in place thereof the following words:- conservation and recreation.

#### **EOEA Reorg 136**

SECTION 317. Section 175 of said chapter 111, as so appearing, is hereby amended by striking out the last sentence.

#### **Codifying the SANE Program**

SECTION 318. Said chapter 111, as so appearing, is hereby further amended by inserting after section 218, the following section:-

Section 219. (a) As used in this section, the following words shall have the following meanings unless the context clearly indicates otherwise:

"Forensic exam," the collection, preservation and documentation of forensic evidence.

"Forensic evidence," evidence collected during the physical examination of patients seeking medical attention after a sexual assault or rape including but not limited to evidence collected through the use of the standardized kit for the collection and preservation of evidence in rape cases under section 97B of chapter 41.

(b) The commissioner shall establish a multi-disciplinary advisory board to assist with the development of a statewide program for the training and certification of sexual assault nurse examiners to conduct comprehensive forensic exams for the purpose of collection, preservation and documentation of forensic evidence for use in civil or criminal proceedings. The advisory board will include, but not be limited to, the executive office of public safety, Jane Doe Inc., the attorney general's office, Massachusetts office for victim assistance, the Disabled Persons Protection Commission, the Mass Nurses Association, the Massachusetts District Attorney's Association, the department of social services, the Boston police department crime laboratory and the state police crime laboratory. The commissioner shall establish eligibility requirements for licensed medical professionals for certification as sexual assault nurse examiners, upon completion of a sexual assault nurse examiner training and certification program approved by the commissioner and satisfaction of all requirements that the commissioner may establish for certification. As part of the training and certification program, the commissioner, in consultation with the multi-disciplinary advisory board, shall develop uniform standards and protocols for certified sexual assault nurse examiners to use in conducting forensic exams including protocols regarding reliability of evidence-gathering and cooperation with the district attorney, local law enforcement agencies, local community based social service agencies, and the courts to afford victims the rights and services described in chapter 258B. The commissioner shall develop uniform protocols for compassionate and high-quality medical and nursing care-giving, medical testing and prophylactic treatment for possible exposure to sexually transmitted diseases, and appropriate discharge planning with referral to local law enforcement and community based agencies including rape crisis centers and post-discharge follow-up.

(c) In addition to the training and certification program, the commissioner shall operate a statewide program within the department of public health to deliver sexual assault nurse examiner services at designated acute care hospital sites throughout the Commonwealth to provide on-call services of certified sexual assault nurse examiners for patients who seek medical treatment immediately following a sexual assault or rape. Acute care hospitals, as defined in section 25B, that meet the commissioner's standards for designation as sexual assault nurse examiner sites may participate in the sexual assault nurse examiner services program. Certified sexual assault nurse examiners who provide services at a designated acute care hospital site as part of the department's sexual assault nurse examiner services program shall be regarded as public employees for purposes of Chapter 258 of the General Laws and shall be regarded as an agent of the hospital for purposes of section 12F of chapter 112.

(d) The department of public health may promulgate rules and regulations as may be necessary for implementation of the provisions of this section.

#### **Additional Penalties for Board of Professional Licensure**

SECTION 319. Section 61 of chapter 112 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first paragraphs and inserting in place thereof the following three paragraphs: --

Except as otherwise provided by law, each board of registration may, by majority vote and upon determination made after a hearing that the holder of a license, certificate, registration or authority issued by each board of registration within the office of consumer affairs and business regulation is guilty of any of the offenses enumerated in this section, undertake the following actions:

- (1) suspend, revoke, cancel or place on probation such license, certificate, registration or authority;
- (2) reprimand or censure a holder;
- (3) assess upon such holder a fine not to exceed \$5,000 for each violation;
- (4) require such holder to perform, for each such violation, up to 100 hours of public service in a manner and time to be determined by the board;
- (5) require such holder to complete additional education and training as a condition of retention or future consideration of reinstatement of said license, certificate, registration or authority;
- (6) require such holder to practice under appropriate supervision for a period of time as determined by the board as a condition of retention or future consideration of reinstatement of said license certificate, registration or authority;
- (7) require such holder to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition of retention or future consideration of reinstatement of said license, certificate, registration or authority; and
- (8) require restitution of not more than \$10,000 where appropriate.

Each board of registration may discipline the holder of a license, certificate, registration or authority issued in accordance with the provisions of this section if such a holder has:

(1) been found guilty of conduct which places into question the holder's competence to practice his or her profession including, but not limited to, gross misconduct or misconduct in the practice of the profession, or practicing the profession fraudulently or beyond its authorized scope, or with gross incompetence, or with negligence on more than one occasion;

(2) been found guilty of practicing his or her profession while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;

(3) been found guilty of violating any law, rule or regulation of the board of registration governing the practice of his or her profession;

(4) been convicted of a criminal offense which reasonably calls into question the holder's ability to practice his or her profession;

(5) been found guilty of dishonesty, fraud or deceit which is reasonably related to the practice of his or her profession;

(6) been found guilty of knowingly permitting, aiding, or abetting an unlicensed person to perform activities requiring a license, certificate, registration or authority; or

(7) has had a license, certificate, registration or authority issued by another state or territory of the United States, the District of Columbia, or foreign state or nation with authority to issue such a license, certificate, registration or authority revoked, canceled or suspended, not renewed, or otherwise acted against, or the holder has been disciplined, if the basis for the action would constitute a basis for disciplinary action in the commonwealth.

Nothing in this section shall be deemed a limitation on any board's authority to impose such reasonable sanction as deemed appropriate by the board after hearing or by consent agreement.

#### **Additional Penalties for Board of Professional Licensure**

SECTION 320. Section 65 of said chapter 112, as so appearing, is hereby amended by striking out the word "one" in line 5 and inserting in place thereof the figure "10".

#### **Additional Penalties for Board of Professional Licensure**

SECTION 321. Chapter 112 of the general laws, as appearing in the 2000 Official Edition, is hereby amended by adding after section 65 the following:-

Section 65A. Each board of registration may assess and collect a fine up to five thousand dollars for each violation upon any person who practices any trade or profession at a time when his or her license, certificate, registration or authority to do so is not valid because it has been suspended, revoked or canceled under authority of this chapter, and upon any person who knowingly practices any trade or profession at a time when his or her license, certificate, registration or authority authorizing him or her to do so has expired. Each board may make application to the appropriate court for an order enjoining unlicensed practice, and an injunction, restraining order or other order as may be appropriate shall be granted by such court.

Section 65B. Except as otherwise permitted by law, each board of registration, after a hearing held pursuant to chapter thirty A before any such board having jurisdiction, may assess and collect a fine of up to five thousand dollars for each violation upon any person who, without holding the required license, certificate, registration, or authority, engages in the practice of any trade or profession for which a license, certificate, registration, or authority is required. The provisions of this section shall not affect, but shall be in addition to, any other penalty or remedy provided by law. Each board may make application to the appropriate court for an order enjoining unlicensed practice, or ordering payment of any assessed fine, or both. Upon a showing by the board that such person has engaged in unlicensed practice, an injunction, restraining order or other order as may be appropriate shall be granted by such court.

Section 65C. Each board of registration which has jurisdiction over a licensee whose continued practice poses an immediate and serious threat to the public health, safety or welfare may suspend or refuse to renew the holder's license, certificate, registration or authority pending a hearing on the merits of the allegation against the holder, provided that the board shall hold a hearing pursuant to chapter 30A on the necessity for the emergency action within 7 days of the action. The board shall issue to the licensee a written order of summary suspension which specifies the findings of the board and the reasons for its summary suspension and which also includes notice of the date, time and place of the aforementioned 7-day hearing. At the request of a licensee the board may reschedule this hearing to a date and time mutually agreeable to the board and licensee. Any such rescheduling of the hearing granted at the licensee's request shall not operate to lift or stay the summary suspension order. If such hearing is not held within 7 days of the board's emergency action, the license, certificate, registration or authority against which action was taken shall be considered reinstated. At the adjudicatory hearing on the necessity for summary suspension, the board shall receive evidence limited to determining whether the summary suspension order shall continue in effect pending the final disposition of the complaint. Following such hearing, any continuing suspension imposed by a board shall remain in effect until the conclusion of any formal proceeding on the merits of the allegations against the holder, including judicial review thereof, or withdrawn by such board. The division, after proper notice and hearing, shall adopt rules and regulations governing the emergency suspension procedure authorized by this section.

Section 65D. Any complaint, report, record or other information received or kept by any board of registration within the division of professional licensure in connection with an investigation shall be considered a public record only following the issuance of an order to show cause or final action by the board. Before issuing an order to show cause or final action, each board may keep confidential any complaint, report, record or other information received or made in connection with an investigation conducted by the board, provided that the identity of the person filing a complaint shall be exempt from disclosure as a public record at all times, except to the extent that a licensee may be entitled to such information for purposes of preparing a defense in a formal adjudicatory hearing. The requirement that investigative records or information be kept confidential shall not apply to requests from other state or federal agencies, boards or institutions as the division shall determine by regulation.

Meetings of the boards held for the purpose of conducting investigative conferences related to a complaint shall not be considered open meetings within the meaning of chapter 30A, section 11A ½ of the General Laws.

Section 65E. After a complaint has been filed with any of the boards of registration alleging that any holder of a license, certificate, registration or authority issued by any of the boards may be incompetent or unable to practice his or her profession or trade with reasonable skill and safety because such holder's ability to practice is impaired due to mental illness or physical illness, the board may order such holder to be examined by one or more physicians or psychotherapists approved by the board at the board's expense. If the individual fails or refuses to comply with an order by the board for such examination, and upon reasonable notice to the holder, the board may apply to the superior court for an order compelling the holder to submit to an examination. If the board's application is granted, the court may, after opportunity for hearing, require the individual to pay to the board its reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds

an award of expenses unjust. The holder's failure to comply with a court order issued under this section shall constitute grounds for disciplinary action by the board, including but not limited to the sanctions listed in section 61. The report of the examiners shall be made available to the holder and may be received as direct evidence in formal adjudicatory proceedings; said report shall remain confidential except to the extent it is disclosed in such proceedings.

#### **Charges at the Soldiers' Homes**

SECTION 322. Section 5 of chapter 115A of the General Laws, as so appearing, is hereby amended by inserting after the words "hospitalization in," in line 5, the following words:— including an increase in the daily rate to be paid by each long-term care and domiciliary resident in.

#### **Health and Human Services Reorganization 8**

SECTION 323. Chapter 118E of the General Laws is hereby amended by striking out sections 1 to 5, inclusive, as appearing in the 2000 Official Edition, and inserting in place thereof the following 2 sections:-

Section 1. The executive office for health and human services shall be the single state agency responsible for the administration of programs of medical assistance and medical benefits established pursuant to this chapter. All actions of the executive office of health and human services shall be taken by the secretary acting as the single state agency, through the division of medical assistance and the secretary of elder affairs, as appropriate.

Section 2. All powers and duties established pursuant to this chapter shall be exercised by the secretary of health and human services, through the division of medical assistance and the secretary of elder affairs, as appropriate.

#### **Health and Human Services Reorganization 9**

SECTION 324. Section 6 of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 2 and 13, the word "division" and inserting in place thereof, in each instance, the following words:- "executive office".

#### **Health and Human Services Reorganization 10**

SECTION 325. Said section 6 of said chapter 118E, as so appearing, is hereby further amended by striking out, in lines 4 and 6, the word "commissioner" and inserting in place thereof, in each instance, the words:- secretary of health and human services.

#### **Health and Human Services Reorganization 11**

SECTION 326. Section 7 of chapter 118E, as so appearing, is hereby amended by inserting after the word "division", in line 2, the following words:- or the department of elder affairs, as appropriate.

#### **Health and Human Services Reorganization 12**

SECTION 327. Section 8 of said chapter 118E, as so appearing, is hereby amended by striking out the clauses a. and b. and inserting in place thereof the following 5 clauses:-

- a. "Commissioner, the commissioner of medical assistance or the secretary of elder affairs, as appropriate.
- a 1/2. "Department", the department of elder affairs.
- a 3/4. "Division", the division of medical assistance within the executive office of health and human services; provided, however, that for the purposes of sections 9 to 52, inclusive, a reference to the word "division" shall mean the department of elder affairs, whenever appropriate.
- b. "Executive office", the executive office of health and human services.
- b 1/2. "Institution", a licensed hospital, nursing home or public medical institution that meets the requirements of the secretary.

#### **MassHealth Premiums**

SECTION 328. Section 9 of chapter 118E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting at the end thereof the following sentence:— The division may charge premiums to eligible persons as a condition of receiving benefits, to the extent permitted by Title XIX. The division shall establish such premiums based on a sliding scale commensurate with beneficiary income levels.

#### **Projected Expenditure and Revenue Reports for the Demonstration Project**

SECTION 329. Subsection (1) of section 9A of said chapter 118E, as so appearing, is hereby amended by striking paragraph 6.

#### **Projected Expenditure and Revenue Reports for the Demonstration Project II**

SECTION 330. Subsection (2) of said section 9A of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 58 and 59, the words "and the provisions of section nine B".

#### **MassHealth HIV Technical Change**

SECTION 331. Subsection (3) of section 9A of chapter 118E, as so appearing, is hereby amended by striking out, in line 117, the letter "(g)" and inserting in place thereof the following:— (i).

### **Projected Expenditure and Revenue Reports for the Demonstration Project III**

SECTION 332. Section 9B of chapter 118E of the General Laws is hereby repealed.

### **Projected Expenditure and Revenue Reports for the Demonstration Project IV**

SECTION 333. Subsection (7) of section 9C of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 132 and 133, the words "including changes necessary to ensure compliance with the budget neutrality requirements of section 9B".

### **Projected Expenditure and Revenue Reports for the Demonstration Project V**

SECTION 334. Subsection (13) of said section 9C of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 164 through 166, the words "and shall be further subject to the requirements of the budget neutrality plan established by section 9B".

### **EOHHS Authorization to Seek Waiver Regarding Asset Transfers**

SECTION 335. Said chapter 118E of the General Laws, as amended by section 96 of chapter 184 of the acts of 2002, is hereby further amended by inserting after section 9D the following:—

Section 9E. The secretary of health and human services may apply for authority from the Secretary of the United States Department of Health and Human Services, pursuant to section 1115 of the Social Security Act that authorizes the Secretary to waive provisions of Title XIX of the Social Security Act, to implement measures that (1) change to a later date the time currently provided by federal law for starting the penalty periods for persons who transfer assets for less than fair market value; (2) require excess assets to be spent on health care or other necessary living expenses; (3) to treat annuities similarly to trusts and require the Commonwealth to be a beneficiary to the extent of MassHealth benefits provided; and (4) increase look-back periods, so called, for real estate transfers and transfers into irrevocable trusts. The division or the department of elder affairs, as appropriate, may by regulation implement one or more of such measures under the terms and conditions approved by the Secretary, provided that the division or the department, as appropriate, shall waive such measures to address hardships as determined by the division or department.

### **Technical Change to Special Status Immigrants**

SECTION 336. Subsection (2) of section 16D of said chapter 118E, as so appearing, is hereby amended by striking out the words "which shall not be less than the same benefits provided on July 1, 1997 to the eligibility group described in clause (g) of subsection (2) of section 9A."

### **Special Status Immigrants**

SECTION 337. Section 16D of chapter 118E, as so appearing, is hereby amended by inserting at the end thereof the following new subsection:—

(3) Benefits for aliens under this section shall not be provided to persons age 19 or older; provided that said benefits shall not be terminated for persons described in clauses (i), (ii), (iii) and (iv) of subsection (2).

### **Prior Authorization for Medicaid Prescriptions**

SECTION 338. Chapter 118E of the General Laws is hereby amended by striking out section 17, as amended by section 24 of chapter 177 of the acts of 2001, and inserting in place thereof the following section:—

Section 17. Multiple source drugs listed in the Massachusetts list of interchangeable drug products established pursuant to the provisions of section thirteen of chapter seventeen of the General Laws and regulations adopted thereunder shall not be reimbursable except for the "Massachusetts maximum allowable cost", as defined by regulations of the department, unless the division grants prior authorization based upon the practitioner's assertion to the division that satisfactorily demonstrates that a recipient's medical condition requires the use of a nongeneric drug and unless the practitioner writes on the face of the prescription in his or her own handwriting the words "brand name medically necessary" under the words "no substitution" in a manner consistent with applicable state law; provided that a pharmacist dispensing in accordance with this section shall be exempt from the provisions of the fourth paragraph of section twelve D of chapter one hundred and twelve. A request for prior authorization may be made by telephone or other telecommunication device or in writing. The division shall act within 24 hours of any such request. If the request is denied, the practitioner or recipient may appeal as provided for in sections 47 and 48, provided that the board of hearings hold a hearing and render a decision within 90 days of the appeal to the division. The division shall authorize the use of a nongeneric drug as requested by the practitioner during the pendency of the appeal.

### **Related to the Provision of Insurance Information**

SECTION 339. Section 22 of chapter 118E of the General Laws, as most recently amended by section 25 of chapter 177 of the acts of 2001, is hereby amended by inserting at the end thereof the following:— Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, all insurers doing business in the commonwealth, shall provide information requested by the department of transitional assistance and the division of medical assistance for use by said agencies for the purpose of recovering public assistance benefits under this section and section 5G of chapter 18.

### **Employer Sponsored Insurance**

SECTION 340. Section 23 of chapter 118E of the General Laws, as amended by section 26 of chapter 117 of the acts of 2001, is hereby further amended by inserting at the end of the sixth paragraph the following sentence:— All public and private entities who employ individuals in the commonwealth shall provide, when requested by any employee applying for or receiving benefits provided by the division, written



information to the employee describing the availability of health insurance, if any, provided by or through the employer. The failure of an employer to provide an employee with such information shall not be grounds for denial of benefits by the division.

#### **MassHealth Pharmacy Co-Pays**

SECTION 341. The fourth paragraph of section 25 of chapter 118E of the General Laws, as amended by section 98 of chapter 184 of the acts of 2002, is hereby further amended by striking out the second sentence and inserting in place thereof the following three sentences:— The division shall receive a copayment of \$3 for the use of emergency room services in acute care hospitals for the treatment of nonemergency conditions. In the absence of managed care plans, the division shall require, to the extent permitted by federal law, that recipients, if eligible for such benefits, be liable for a co-payment of \$1 towards the purchase of any generic or preferred pharmaceutical and a co-payment of \$3 towards the purchase of any brand name or non-preferred pharmaceutical. No person shall be denied service for which they are eligible based on inability to pay such co-payment.

#### **MassHealth Co-Pays**

SECTION 342. Section 25 of chapter 118E of the General Laws, as amended by section 98 of chapter 184 of the acts of 2002, is hereby further amended by striking the last sentence and inserting in place thereof the following:—

The division may also require, to the extent permitted by federal law, that recipients be liable for a co-payment of up to \$3 for all other covered services with the exception of mental health and substance abuse services. The division shall establish a per member out-of-pocket cap for all co-payments.

#### **MassHealth Asset Test**

SECTION 343. Section 25 of chapter 118E, as so appearing, is hereby amended by inserting at the end thereof the following paragraph:— Nothing in this chapter precludes the division from using asset standards in determining the financial eligibility for any benefit; provided that the division shall submit to the house and senate committees on ways and means and the joint committee on health care a report of changes in asset standards within thirty days of implementation, and shall submit four quarterly reports, beginning three months after any new asset standards are implemented, detailing the effect such standards may have had on the number of people applying for or terminated from MassHealth.

#### **Health and Human Services Reorganization 13**

SECTION 344. Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Enrollee" the following definition:—

"Executive office", executive office of health and human services.

#### **Hospital Private Sector Charges**

SECTION 345. Section 1 of chapter 118G of the General Laws, as so appearing in the 2000 Official Edition, is hereby amended by striking the definition of "private sector charges" and inserting in place thereof the following:—

"Private sector charges", gross patient service revenue attributable to all patients less gross patient service revenue attributable to Titles XVIII and XIX, other publicly aided patients, free care and bad debt. For the purposes of determining a hospital's liability to the Uncompensated Care Trust Fund under this Chapter, regardless of actual Title XVIII gross patient service revenue, Title XVIII gross patient service revenue will be attributed to any free standing pediatric hospital before determining private sector charges. Such attributed revenue will equal the average Title XVIII gross patient service revenue as a percent of total gross patient service revenue for all hospitals in the state excluding free standing pediatric hospitals. Upon determination of compliance with 42 CFR 433.68 and other applicable federal laws and regulations, this average percent is to be applied against a free standing pediatric hospital's total gross patient service revenue to determine the attributed Title XVIII gross patient service revenue at such hospital before determining private sector charges.

#### **Health and Human Services Reorganization 14**

SECTION 346. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Resident" the following definition:—

"Secretary", the secretary of health and human services.

#### **Health and Human Services Reorganization 15**

SECTION 347. The second paragraph of section 2 of said chapter 118G, as so appearing, is hereby amended by striking out clause (b).

#### **Health and Human Services Reorganization 16**

SECTION 348. Said chapter 118G is hereby further amended by inserting after section 2 the following section:—

Section 2A. The secretary shall establish rates of payment for health care services. The secretary shall have the sole responsibility for establishing rates to be paid to providers for health care services by governmental units, including the division of industrial accidents. The rates shall be adequate to meet the costs incurred by efficiently and economically operated facilities providing care and services in conformity with applicable state and federal laws and regulations and quality and safety standards and which are within the financial capacity of the commonwealth. The secretary shall have the sole responsibility for establishing fair and adequate charges to be used by state institutions for general health supplies, care and rehabilitative services and accommodations, which charges shall be based on the actual costs of the state institution reasonably related, in the circumstances of each institution, to the efficient production of such services in the institution and shall also have sole responsibility for determining rates paid for educational assessments conducted or performed by psychologists and trained, certified

educational personnel pursuant to the tenth paragraph of section 3 of chapter 71B, notwithstanding any general or special law or rule or regulation to the contrary.

#### **Health and Human Services Reorganization 17**

SECTION 349. Section 7 of said chapter 118G is hereby amended by striking out, in lines 1, 17, 25, 40, 41, 58, 74, 89, 90, 91, 97, 109, 111, 115, 121, 124, 126, 127, 135, 137 and 138, 153, 160, 164, 168, 171, 173, 176, 179, 181, 182, 183, 194 and 197, as so appearing, the word "division" and inserting in place thereof, in each instance, the following words:- executive office.

#### **Health and Human Services Reorganization 18**

SECTION 350. The tenth paragraph of said section 7 of said chapter 118G, as appearing in section 100 of chapter 184 of the acts of 2002, is hereby amended by striking out the word "division", each time it appears, and inserting in place thereof, in each instance, the following words:- executive office.

#### **Health and Human Services Reorganization 19**

SECTION 351. Said section 7 of said chapter 118G is hereby further amended by striking out, in line 177, as appearing in the 2000 Official Edition, the word "division's" and inserting in place thereof the following words:- executive office's.

#### **Health and Human Services Reorganization 20**

SECTION 352. Section 8 of said chapter 118G, as so appearing, is hereby amended by striking out, in line 17 the word "division" and inserting in place thereof the following word:- secretary.

#### **Authority to Modify Basis for Pharmacy Reimbursement**

SECTION 353. Section 7 of chapter 118G of the General Laws, as amended by sections 99 and 100 of chapter 184 of the acts of 2002, is hereby amended by striking the twelfth paragraph.

#### **Health and Human Services Reorganization 21**

SECTION 354. Section 9 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 3, 21, 31, 35, 41, 42 ,the words "division" wherever so appearing and inserting in place thereof the words, "executive office."

#### **Health and Human Services Reorganization 22**

SECTION 355. Section 10 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 10 and 17, the word "division" and inserting in place thereof, in each instance, the following words:- executive office.

#### **Health and Human Services Reorganization 23**

SECTION 356. Section 10 of said chapter 118G, as so appearing, is hereby further amended by adding, in line 19, after the word "division" the following words:- or executive office.

#### **Health and Human Services Reorganization 24**

SECTION 357. Section 11 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 54 and 80, the words "division of health care finance and policy" and inserting in place thereof the words, "executive office."

#### **Health and Human Services Reorganization 25**

SECTION 358. Section 11 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 57 and 107, the word "division" and inserting in place thereof the words, "executive office."

#### **Health and Human Services Reorganization 26**

SECTION 359. Section 12 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 1 and 19, the word "division" and inserting in place thereof, in each instance, the following words:- executive office.

#### **Health and Human Services Reorganization 27**

SECTION 360. Section 15 of chapter 118G, as so appearing, is hereby amended by striking, in lines 5 and 6, the words "division of health care finance and policy" and inserting in place thereof the words, "executive office."

#### **Health and Human Services Reorganization 28**

SECTION 361. Section 17 of said chapter 118G, as so appearing, is hereby amended by striking out, in line 2, the word "division" and inserting in place thereof the following words:- executive office.

#### **Change of Pool Mission**

SECTION 362. Section 18 of chapter 118G of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the third sentence of paragraph (a) and inserting in place thereof the following:—

The purpose of said fund is to reimburse hospitals and community health centers for care provided to low-income, uninsured and underinsured residents of the commonwealth.

#### **Medicaid Enrollment**

SECTION 363. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out the third sentence of paragraph (i) and inserting in place thereof the following:—

Said regulations shall provide that no claim for free care may be paid by the pool until the division of medical assistance determines that the applicant is not enrolled in the MassHealth program established under chapter 118E. Said determination shall not exceed 20 business days.

#### **Utilization Review**

SECTION 364. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out the fifth sentence of paragraph (i) and inserting in place thereof the following:—

The division shall implement a utilization review program designed to monitor the appropriateness of services paid for by said pool and to promote the delivery of care in the most appropriate setting.

#### **Verify Eligibility for DMA**

SECTION 365. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out the first sentence of paragraph (k) and inserting in place thereof the following:—

The division, in conjunction with the division of medical assistance, shall promulgate regulations to develop and implement procedures to verify the eligibility of individuals for free care and to ensure that other coverage options are utilized fully before free care is granted.

#### **Verify Income Eligibility for Pool**

SECTION 366. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out the first sentence of section (l) and inserting in place thereof the following:—

The division shall enter into interagency agreements with the department of revenue to verify income data for recipients of free care and to recover payments made by the pool on behalf of individuals who are ineligible for free care or on whose behalf the pool has paid for emergency bad debt.

#### **Recovery of Bad Debt**

SECTION 367. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by inserting the following at the end of paragraph (l):—

The division shall promulgate regulations requiring acute hospitals to submit data that will enable the department of revenue to pursue recoveries from individuals who are ineligible for free care payments and on whose behalf the pool has made payments to acute hospitals for emergency bad debt.

#### **Penalties for Diverted Free Care**

SECTION 368. Subsection (n) of section 18 of chapter 118G of the general laws is hereby amended by adding at the end thereof the following:—

The division shall establish fines or penalties not to exceed \$10,000 per diversion for any hospital which diverts a free care patient from care at said hospital without the consent of the hospital to which the patient is being diverted. Any amount collected shall be deposited into the uncompensated care trust fund.

#### **Nursing Home User Fee Additional Reporting**

SECTION 369. Subsection (c) of said section 25 of chapter 118G of the General Laws, as amended by chapter 184 of the acts of 2002, is hereby amended by inserting at the end thereof the following sentence:— The division may require additional reports, including but not limited to monthly census data, as it deems necessary to monitor collections and compliance.

#### **Pharmacy Assessment Clarification**

SECTION 370. Subsection (a) of section 26 of said chapter 118G, as inserted by section 101 of chapter 184 of the acts of 2002 is hereby amended by striking the definition of "pharmacy" and inserting in place thereof the following:—

"Pharmacy", any retail drug business licensed by the board of registration in pharmacy in accordance with chapter 112 that is authorized to dispense controlled substances, including retail drug business as defined in section 1 of chapter 94C, and pharmacies licensed in accordance with chapter 94C that dispense drugs to individuals pursuant to a written prescription, including outpatient pharmacies of hospitals, community health center pharmacies, clinic pharmacies, and any other pharmacies that the division determines must be included within the federal class of "outpatient prescription drugs."

#### **Pharmacy User Fee Additional Reporting**

SECTION 371. Subsection (c) of said section 26 of said chapter 118G, as so inserted, is hereby amended by inserting at the end thereof the following sentence:— The division may require additional reports as it deems necessary to monitor collections and compliance.

#### **Pharmacy User Fee Technical Correction**

SECTION 372. Subsection (d) of said section 26 of said chapter 118G, as so inserted, is hereby amended in the third sentence by striking the words "nursing home" and inserting in place thereof the following:— pharmacy.

#### **Expansion of Parental Responsibility for Appointed Counsel Fees Incurred in the Criminal Defense of a Custodial Child**

SECTION 373. Section 29A of chapter 119 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking the section and inserting in place thereof the following section:—

Section 29A. The parents of an unemancipated minor shall be liable for such reasonable legal fees and expenses of an attorney representing said minor in criminal proceedings. Except for cases where the parent is the alleged victim, the court shall determine whether the parent or guardian of an unemancipated minor is indigent. If the parent or guardian is not indigent, the court shall assess a \$300 fee against the parent or guardian to pay for the cost of any attorney that is supplied by the committee for public counsel services or assigned to represent such minor by the court and paid out of public funds in such criminal proceedings. If the parent is determined to be indigent but is still able to contribute toward the payment of some of said costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel. This section shall not apply to a parent who, as a result of a decree of a court of competent jurisdiction, does not have custody of such minor.

#### **Required Parental Contribution to the Appointed Counsel Fees for A Child in Need of Services**

SECTION 374. Section 39F of chapter 119 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking the second sentence and inserting in place thereof the following sentences:— The court shall determine whether the parent or guardian of any such child alleged to be in need of services is indigent. If the court determines that the parent or guardian is not indigent, the court shall assess a \$300 fee against the parent or guardian to pay for the cost of appointed counsel. If the parent is determined to be indigent but is still able to contribute toward the payment of some of said costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel.

#### **Child Support Enforcement**

SECTION 375. Section 2 of chapter 119A of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In carrying out said responsibilities, the IV-D agency may expend such funds as may be necessary for public information, including paid advertisements and outreach programs to advise the public of the services available through such agency to establish, modify, or enforce orders of child support, and to publicize the availability and to encourage the use of procedures for voluntary acknowledgment of paternity and of other IV-D services. Any penalty, fee or interest that this chapter authorizes to be assessed by the IV-D agency shall be collected and enforced by any means authorized under this chapter for the enforcement and collection of child support. Upon collection, a penalty or fee shall be retained by the IV-D agency; but such penalties or fees may only be expended subject to appropriation. Upon collection, interest shall be distributed to the obligee.

#### **EOEA Reorg 137**

SECTION 376. Section 11 of chapter 120, as so appearing, is hereby amended by striking out, in lines 11 and 12, and in line 17, the words "commissioner of environmental management" and inserting in place thereof, in each instance, the following words:- commissioner of the department of conservation and recreation.

#### **Absences from Housing Authority Board Meetings**

SECTION 377. Section 5 of chapter 121B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:- The absence of a board member from three consecutive meetings, except for sickness supported by the certificate of a physician, shall be deemed neglect of duty, and shall be a cause for removal as provided herein.

#### **Establishing Petition for Involuntary Juvenile Alcohol and Drug Rehabilitation - 1**

SECTION 378. Section 35 of chapter 123 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 13 and 14, the words "or any division of the juvenile court department".

#### **Establishing Petition for Involuntary Juvenile Alcohol and Drug Rehabilitation - 2**

SECTION 379. Said chapter 123 of the General Laws, as so appearing, is hereby amended by inserting after section 35 the following section:- Section 35A. For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:- "Alcoholic", a person who chronically or habitually consumes alcoholic beverages to the extent that (1) such use substantially injures his health or substantially interferes with his social, economic or academic functioning or the social or economic functioning of his family; or (2) he has lost the power of self-control over the use of such beverages.

"Juvenile", a person aged 16 or 17.

"Substance abuser, a person who chronically or habitually consumes or ingests controlled substances to the extent that (1) such use substantially injures his health or substantially interferes with his social, economic or academic functioning or the social or economic functioning of his family; or (2) who has lost the power of self-control over the use of such controlled substances.

(b) Subject to appropriation, any parent, guardian, police officer, physician, probation officer or department of social services representative may petition in writing any division of the juvenile court department for an order of commitment of a juvenile whom he has reason to believe is an alcoholic or substance abuser. Upon receipt of a petition for an order of commitment of such juvenile and any sworn statements the court may request from the petitioner, the court, subject to appropriation, shall immediately schedule a hearing on the petition and shall cause a summons and a copy of the petition to be served upon the juvenile. Upon receipt of such petition, the court shall issue a summons to the juvenile and both parents of the juvenile or his legal guardian. The summons shall require the juvenile to appear before the court at a stated time and place on the return day and shall be served by an officer authorized to serve criminal process by giving to the juvenile's parent or guardian in hand or by leaving at his dwelling house or last and usual place of abode with some person of suitable age and discretion then residing therein an attested copy not less than 24 hours before the return day or by mailing an attested copy to the juvenile's last known address.

(c) In the event of the juvenile's failure to appear at the time summoned, the court may issue a warrant for his arrest. Upon presentation of such a petition, if there are reasonable grounds to believe that the juvenile will not appear and that any further delay in the proceedings would present an immediate danger to the physical well-being of the juvenile, the court may issue a warrant for the apprehension and appearance of the juvenile before it. No arrest shall be made on such warrant unless the juvenile may be presented immediately before a judge of the juvenile court.

(d) The juvenile shall have the right to be represented by legal counsel and may present independent expert or other testimony. If the court finds the juvenile indigent, it shall immediately appoint counsel.

(e) If, after a hearing, the court finds, based upon testimony by the juvenile's parent or guardian, and/or competent medical testimony, that the juvenile is an alcoholic or substance abuser and that there is a likelihood of serious harm as a result of his alcoholism or substance abuse, subject to appropriation, the court shall order the juvenile to be committed for a period of not less than 30 days. Such commitment shall be for the purpose of inpatient care in public or private facilities approved by the department of public health under the provisions of chapter 111B for the care and treatment of alcoholism or substance abuse. Any juvenile so committed shall be housed and treated separately from convicted criminals. The juvenile shall be encouraged to consent to further treatment and shall be allowed voluntarily to remain in the facility for such purposes. The department of mental health, in conjunction with the department of public health, shall maintain a roster of public and private facilities available, together with the number of beds currently available, for the care and treatment of juvenile alcoholism or substance abuse and shall make it available to the juvenile courts of the commonwealth on a monthly basis. Nothing in this section shall preclude any public or private facility for the care and treatment of juvenile alcoholism or substance abuse from treating juveniles on a voluntary basis.

(f) This section shall be subject to appropriation.

#### **Inmate Account Administration Fees**

SECTION 380. The first paragraph of section 1 of chapter 124 of the General Laws, as so appearing, is hereby amended by inserting after clause (t), the following clause:—

(u) adopt policies and procedures establishing reasonable fees for maintenance and administration of inmate accounts maintained at any state correctional facility. The commissioner may charge each inmate reasonable fees for the maintenance and administration of inmate accounts and may deduct such fees from each inmate's accounts.

#### **EOEA Reorg 138**

SECTION 381. Section 83A of chapter 127, as so appearing, is hereby further amended by striking out, in lines 4 and 5, lines 8 to 10, inclusive, and in lines 16 to 18, inclusive "the words "commissioner of environmental management or of the metropolitan district commission, as the case may be" and inserting in place thereof, in each instance, the following words:- commissioner of the department of conservation and recreation.

#### **EOEA Reorg 139**

SECTION 382. Said Section 83A of said chapter 127, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "under the control of the metropolitan district commission" and inserting in place thereof the following words:- within the metropolitan parks district.

#### **Parolee Supervision Fee**

SECTION 383. Section 128 of chapter 127 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The parole board shall assess upon every person granted a parole permit a monthly parole supervision fee of \$50, hereinafter referred to as a 'parole fee'. The person shall pay the parole fee once each month during such time as the person remains on parole. The parole board shall develop a schedule for the monthly payment of the fee for each parolee that is assessed. The parole board may waive payment of the parole fee if it determines that such payment would constitute an undue hardship on the person or his family due to limited income, employment status or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that the person is determined to be unable to pay the monthly parole fee. The parole board shall establish procedures relative to the collection and waiver of such fee by regulation. The parole fee shall be collected by the parole board and shall be transmitted to the treasurer for deposit into the General Fund. The parole board shall account for all such fees assessed, received and waived and shall report such data annually to the secretary of administration and finance and the house and senate committees on ways and means.

#### **EOEA Reorg 140**

SECTION 384. Section 1 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out the words "food and agriculture", in lines 3, 4 and 6 and inserting in place thereof the following words:- agricultural resources.

#### **EOEA Reorg 141**

SECTION 385. Said Section 1 of said chapter 128, as so appearing, is hereby further amended by inserting after the word “thirty-one”, in line 5, the following word:- A.

#### **EOEA Reorg 142**

SECTION 386. Section 2A of said chapter 128, as so appearing, is hereby amended by striking out the word “ten”, in line 5, and inserting in place thereof the following figure:- 20.

#### **EOEA Reorg 143**

SECTION 387. Said section 2A of said chapter 128, as so appearing, is hereby further amended by striking out, in lines 8 and 10, the word “fifteen” and inserting in place thereof the following figure:- 30.

#### **EOEA Reorg 144**

SECTION 388. Said section 2A of said chapter 128, as so appearing, is hereby further amended by striking out the word “two”, in line 16, and inserting in place thereof the following figure:- 4.

#### **EOEA Reorg 145**

SECTION 389. Section 2B of said chapter 128, as so appearing, is hereby amended by striking out the word “fifty”, in line 3, and inserting in place thereof the following figure:- 100.

#### **EOEA Reorg 146**

SECTION 390. Said chapter 128 of the General Laws is hereby amended by inserting after section 7, as so appearing, the following 5 sections:-

Section 7A. The following words as used in the following 5 sections, unless the context otherwise requires, shall have the following meanings:

""Agriculture" and ""farming", as defined in section 1A of chapter 128.

""Arbor", an area of land devoted to the propagation and cultivation of fruitbearing trees and shrubs, and nut trees.

""Bureau", the bureau of land use in the division of agricultural development.

""Chief", the chief of the bureau of land use.

""Elderly persons of low income", persons having reached the age of 65 or over whose annual income is less than the amount necessary to enable them to maintain a decent standard of living, except that where there exists a surplus of land appropriate for garden use, the age requirement may be reduced by the director to age sixty-two, provided that the oldest of the applicants between 62 and 65 is given preference.

""Families of low income", families and persons whose net annual income is less than the amount necessary to enable them to maintain a decent standard of living.

""Farm", a body of land devoted to agriculture.

""Garden", a piece of land appropriate for the cultivation of herbs, fruits, flowers, or vegetables.

""Use", when applied to gardening; to make use of, without conveyance of title or any other ownership.

""Vacant public land", any land owned by the commonwealth, or any county or municipality therein, that is not in use for public purpose.

Section 7B. Any person may make application to the bureau of land use on a form to be furnished by the bureau for a permit to use available vacant public land for garden, arbor, or farm purposes. Applicants shall submit a plan for said use and shall agree to maintain the land in a condition consistent with said land use plan, and shall agree to abide by the rules and regulations promulgated by said bureau. Failure to carry out the conditions of agreement shall result in the forfeiture of the garden, arbor or farm permit. Any person who is granted the use of garden, arbor, or farm land shall indemnify and save harmless the commonwealth, the department of agricultural resources and all of its officers, agents and employees

against suits and claims of liability of each name and nature arising out of, or in consequence of the use of vacant public land.

Section 7C. Priority in the allotment of vacant public land for garden and arbor purposes shall be given to elderly persons of low income, families of low income and children between the ages of 7 and 16. Products grown in gardens and arbors shall not be sold.

Section 7D. The bureau shall, with the cooperation of other state agencies and cities and towns, compile a list of all vacant land, that in the opinion of the agencies and cities and towns, can be feasibly used for gardening, arbor culture or farming. The bureau shall, by letters of agreement, contract with such agencies or cities and towns for the use of said vacant land. Contracts may contain a termination date. If no date is determined, either party may terminate the contract by written notice given within 60 days; provided, however, that no contract may be terminated until the end of the harvest season. The bureau shall notify the gardeners or farmers of said notice of termination.

Section 7E. Owners of land may make available to the bureau parcels of land for the purposes set forth in section 7B under such terms and conditions as may be agreed upon between the owners and the bureau, and the commonwealth, the department and all of its officers, agents and employees shall be saved harmless as provided in said section fourteen.

Section 7F. The commissioner after a public hearing shall adopt and promulgate rules and regulations in accordance with the provisions of chapter 30A and consistent with sections 7A to 7E, inclusive.

#### **EOEA Reorg 147**

SECTION 391. Section 8B of said chapter 128, as so appearing, is hereby amended by striking out the word "three", in line 14, and inserting in place thereof the following word:- 25.

#### **EOEA Reorg 148**

SECTION 392. Said chapter 128 of the General Laws is hereby amended by inserting after section 13, as so appearing, the following 2 sections:-

Section 13A. There shall be a Milk Producers Security Fund set up in the department of agricultural resources for the purpose of reimbursing Massachusetts producers who sold milk to a dealer and the dealer has defaulted in the timely payment for the milk under chapter 94A, or orders, rules or regulations issued under the authority thereof, or of a federal milk marketing order. Each such producer shall notify the commissioner in writing of any default in such payment within 90 days after the date on which payment of milk is regularly due. If there is reason to believe that the dealer is in arrears in his payments to producers for milk received by him, the commissioner shall give notice to all producers so affected to file verified claims with the commissioner. The commissioner shall examine all claims so filed and shall certify the amounts determined to be due thereon, and transmit the same for payment to the state treasurer under the provisions of section 48 of chapter 10.

Section 13B. The dealer of milk in the commonwealth who first received milk from Massachusetts producers, shall pay on or before the due date of payment to the producers, the amount of 5 cents per 100 weight on the volume of all the milk purchased from said producers and such payments shall be deposited with the state treasurer in the Milk Producers Security Fund established by section 48 of chapter 10. Payment as provided in this section shall be made for all milk shipped to a dealer by a producer who is not a member of a cooperative association which guarantees payment where there is a default in the payment for milk. Payment shall be deducted by the dealer from monies owed by the dealer to the producers in the amount of 5 cents per 100 weight.

The commissioner may suspend the requirements of the previous paragraph from time to time for such a length of time as deemed necessary, but not exceeding 2 years, upon determination that the interests of the producers would be best served by a suspension; provided, however, that the commissioner shall not suspend said requirements if the balance of the fund does not exceed 1,000,000 dollars. The commissioner shall provide 30 days' written notice of any suspension or reinstatement of payments into said fund to the house and senate committees on ways and means and to all dealers and producers affected.

#### **Marine Fisheries Fund Repeal**

SECTION 393. Section 2B of chapter 130 of the General Laws is hereby repealed.

#### **EOEA Reorg 149**

SECTION 394. Section 1 of chapter 131 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 26 and 30, the words "section 6 of chapter 21", each time they appear, and inserting in place thereof, in each instance, the following words:- section 10A of chapter 21A.

**EOEA Reorg 150**

SECTION 395. Section 40A of said chapter 131, as so appearing, is hereby amended by striking out, in lines 25 and 26, and in line 94, the words "metropolitan district commission."

**EOEA Reorg 151**

SECTION 396. Section 12A of chapter 132 of the General Laws, as so appearing, is hereby amended by striking out the words ", including in such terms of the metropolitan district commission,".

**EOEA Reorg 152**

SECTION 397. Section 30 of said chapter 132, as so appearing, is hereby amended by striking out the words ", with the approval of the board of environmental management", in lines 1 through 2,

**EOEA Reorg 153**

SECTION 398. Section 31 of said chapter 132, as so appearing, is hereby amended by striking out, in line 13, the words "and the board of environmental management".

**EOEA Reorg 154**

SECTION 399. Section 32 of said chapter 132, as so appearing, is hereby amended by striking out, in line 2, the words "and the board of environmental management".

**EOEA Reorg 155**

SECTION 400. Section 36 and 36A of chapter 132 of the General Laws are hereby repealed.

**EOEA Reorg 156**

SECTION 401. Section 2C of chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words "metropolitan district commission".

**EOEA Reorg 157**

SECTION 402. Section 3 of said chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "lying outside of the metropolitan parks district".

**EOEA Reorg 158**

SECTION 403. Said section 3 of said chapter 132A, as so appearing, is hereby further amended by inserting after the word "therefore", in line 8, the following words:- and may take by eminent domain under said chapter, or acquire by agreement or otherwise, the right forever, or for such period of time as the department deems expedient, to plant, care for, maintain or remove trees, shrubs and growth of any kind within certain spaces regulated by the department along or near rivers and ponds; and may take or impose by eminent domain under said chapter, or acquire the benefit of, by agreement or otherwise, such restrictions upon such regulated spaces as it deems expedient.

**EOEA Reorg 159**

SECTION 404. Said section 3 of said chapter 132A, as so appearing, is hereby further amended by inserting after the word "conservation", in line 13, the following words:- under the terms set forth in section 3C.

**EOEA Reorg 160**

SECTION 405. Said section 3 of chapter 132A, as so appearing, is hereby further amended by inserting after the word "department", in line 14, the following words:- and outside the metropolitan parks district.

**EOEA Reorg 161**

SECTION 406. Said section 3 of said chapter 132A, as so appearing, is hereby further amended by striking out the last 2 sentences.

**EOEA Reorg 162**

SECTION 407. Section 3A of said chapter 132A, as so appearing, is hereby amended by striking out the words "board of environmental management, the governor and council", in lines 2 through 3, and inserting in place thereof the following words:- stewardship council.



#### **EOEA Reorg 163**

SECTION 408. Said section 3A of said chapter 132A, as so appearing, is hereby further amended by striking out, in line 3, the word “and”.

#### **EOEA Reorg 164**

SECTION 409. Said section 3A of said chapter 132A, as so appearing, is hereby further amended by inserting after the word “selectmen”, in line 4, the following words:- and the board of parks commissioners, if any.

#### **EOEA Reorg 165**

SECTION 410. Said section 3A of said chapter 132A, as so appearing, is hereby further amended by inserting after the word “selectmen”, in line 5, the following words:- or board of parks commissioners.

#### **EOEA Reorg 166**

SECTION 411. Said chapter 132A of the General Laws is hereby amended by inserting after section 3A, as so appearing, the following 6 sections:-

Section 3B. The department may, for all purposes consistent with the purposes specified in section 1, grant easements, rights of way or other interests in land, including leases, in any portion of the lands taken or acquired by it for the purposes of said section, and may accept and assent to any deed containing reservations of such easements or other interests in land, all for such considerations or rentals, and upon such terms, restrictions, provisions or agreements, as determined by the department.

Section 3C. The department, with the concurrence of the park commissioners, if any, in the town where the property is situated, may sell at public or private sale any portion of the lands or rights in land the title to which has been taken or received or acquired and paid for by it for the purposes set forth in section 1, and may, with the concurrence of such park commissioners, execute a deed thereof, with or without covenants of title and warranty, all in the name and behalf of the commonwealth, to the purchaser, his heirs and assigns, and deposit the deed with the state treasurer, together with a certificate of the terms of sale and price paid or agreed to be paid at the sale, and, upon receipt of the sales price and upon the terms agreed in the deed, he shall deliver the deed to the purchaser. The state treasurer may, by the attorney general, sue for and collect the sales price and enforce the terms of any such sale.

If the department decides, under this or the following section, to abandon or sell any portion of the lands or rights in land so taken or acquired by it, and the park commissioners in any town where said property or right in property is situated refuse or fail to concur with the department within 14 days from the giving of written notice of such vote to the park commissioners, the department, upon written notice of not less than 7 days to the park commissioners, may appear before the governor and council and ask their concurrence in such sale or abandonment and if the governor and council, after hearing, concur in such sale or abandonment, it shall have full force and effect.

Section 3D. The department may, with the concurrence of the park commissioners, if any, of the town where the property is situated, by deed recorded in the county where the land lies, accompanied by plan or survey, abandon any easement or other right in land less than the fee taken by the department by right of eminent domain for conservation, recreation or boulevard purposes, and the abandonment shall revert title thereof, as if never taken, in the persons, their heirs and assigns, in whom vested at the time of the taking.

Section 3E. The department may, at any time, sell such wood, timber or other products of the land controlled by the department as the economical management of the lands may require. The department may also sell at public or private sale surplus earth, rock, ice, wood, hay, standing grass, old buildings, and materials no longer needed for the maintenance of boulevards or reservations under its charge. The department may collect the money due from such sales and sue to recover or enforce the collection of the amounts due in the courts of the commonwealth.

Section 3F. Whenever, by reason of a taking by the commonwealth through the department for reservation or boulevard purposes, a public way is so affected that the public rights on the public way might otherwise be abridged, either by being wholly or partly included within the taking, any and all exceptions and reservations made in the taking in favor of any municipality within which the way or part thereof lies, and of the public, and of persons, shall be valid, effectual and binding and in order to insure to the parties concerned the full and perfect enjoyment of the uses thereby reserved, the department may make grants of or convey easements, enter into agreements, issue licenses, and generally conclude arrangements, but no such grant, agreement, license or arrangement shall be taken or held to abrogate or abridge the control of the department over the land included in the taking except as in the exceptions and reservations provided, or the right of the department to make rules and regulations for the government and use of any boulevard or crossway which may be laid out and maintained over the land or over any portion of the land, not inconsistent with such exceptions and reservations.

Section 3G. No person shall acquire any rights by prescription or adverse possession in any lands or rights in lands of the commonwealth under the control of the department of conservation and recreation.

#### **EOEA Reorg 167**

SECTION 412. Section 7 of said chapter 132A, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 1, the words "governor and council" and inserting in place thereof the following words:- stewardship council.

#### **EOEA Reorg 168**

SECTION 413. Section 7A of said chapter 132A, as so appearing, is hereby amended by inserting after the word "regulation", in line 46, the following words:- , except a vehicle owned by the commonwealth or a political subdivision or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered.

#### **EOEA Reorg 169**

SECTION 414. Said section 7A of said chapter 132A as so appearing, is hereby further amended by adding the following sentence:- Liability may be imposed for the reasonable cost of such removal, and for the storage charges, if any, resulting upon the owner of such vehicle.

#### **EOEA Reorg 170**

SECTION 415. Chapter 132A of the General Laws is hereby amended by inserting after section 7A the following 6 sections:-

Section 7B. If money, goods or other property which has been stolen, lost, abandoned or taken from a person under arrest comes into the possession of an employee of the department by virtue of his office or employment, he shall deliver the same to the person designated by the department to receive the same, and he shall then be relieved from further responsibility.

Section 7C. If no person proves ownership of such money, goods or other property within 6 months, the department may cause the goods or other property excepting money unclaimed, to be sold at public auction at such place and time and by such person as the department may designate.

Section 7D. Notice of the time and place of such sale, with a description of the property, shall be given by publishing the same once in a newspaper published in Boston.

Section 7E. Such property, if perishable or liable to deteriorate greatly in value by keeping, or the value of which will probably be less than the expense of keeping, may be sold at public auction at such place and at such time within 6 months and by such person as the department may designate, such notice of the time and place of sale as the department may deem reasonable and proper first being given.

Section 7F. The proceeds of such sales, together with such unclaimed money, after deducting all reasonable charges and expenses incurred on account of such property, shall be accounted for and paid to the commonwealth.

Section 7G. If within 2 years after any such sale the owner claims such property and proves ownership to the satisfaction of the department, the amount of such unclaimed money or the proceeds of the sale of such property, after deducting reasonable expenses, shall be paid to him by the state treasurer out of the special account, without appropriation.

#### **EOEA Reorg 171**

SECTION 416. Section 8 of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "outside of the metropolitan parks district."

#### **State Recreation Areas Fund Repeal**

SECTION 417. Section 10 of chapter 132A of the General Laws is hereby repealed.

#### **EOEA Reorg 172**

SECTION 418. Sections 11A through 11D of chapter 132A of the General Laws are hereby repealed.

#### **EOEA Reorg 173**

SECTION 419. Section 3A of chapter 132B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words "department of food and agriculture" and inserting in place thereof the following words:- department of agricultural resources.

#### **EOEA Reorg 174**

SECTION 420. Said section 3A of said chapter 132B, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words "department of environmental management" and inserting in place thereof the following words:- department of conservation and recreation.

#### **Alcoholic Beverage Control Commission**

SECTION 421. Section 1 of Chapter 138 of the general laws, as appearing in the 2000 official edition, is hereby amended by striking out, in line 32, the words "forty-three of chapter six" and inserting in place thereof the following: "sixty six of chapter ten."

#### **Alcoholic Beverage Control Commission**

SECTION 422. Section 12 of chapter 138 of the general laws, as appearing in the 2002 official edition, is hereby amended by striking out, in lines 8-9, the words:- "subject to the prior approval of the commission."

#### **Alcoholic Beverage Control Commission Fees**

SECTION 423. Chapter 138 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 13 and inserting in place thereof the following section:—

Section 13. A railroad or car corporation operating any line of railroad or furnishing refreshments upon railroad cars within the commonwealth may sell, in any dining, club, buffet or lounge car, alcoholic beverages to be drunk in such cars, if the commission sees fit to issue a license to such railroad or car corporation. The fee for each license under this section shall be \$500 and for each certified copy thereof \$50. An airline corporation operating within the commonwealth may sell in any aircraft alcoholic beverages to be consumed thereon, if duly licensed by the commission. The annual license fee for each airline corporation shall be \$500 and for each certified copy thereof \$50. The commission may also issue licenses to sell alcoholic beverages to the owner or operator of any vessel or shipping company carrying passengers and operating out of any port of the commonwealth. Sales of alcoholic beverages by licensees under this section shall be made only under such regulations as the commission may prescribe. The annual license fee for each vessel shall be \$500. Retail sales by ship chandlers of all alcoholic beverages not to be drunk on the premises, may be authorized by the commission, but such sales shall not be for purposes other than provisioning a vessel or shipping company using any port of the commonwealth. The fee for a license to ship chandler for such sales shall be not less than \$500 nor more than \$1,000. No other license shall be required under this chapter for sales as authorized under this section.

#### **Alcoholic Beverage Control Commission**

SECTION 424. Section 15 of chapter 138 of the general laws, as most recently amended by section 1 of chapter 228 of the acts of 2002, is hereby amended by striking out, in lines 16-17, the following:- “No such license shall be granted except to an applicant approved by the commission.”

#### **Alcoholic Beverage Control Commission**

SECTION 425. Section 16B of chapter 138 of the general laws, as appearing in the 2002 official edition, is hereby amended by striking out, in lines 7-8, the following words:- “and if favorably acted upon by the said authorities shall be submitted for approval by the commission not later than three days following such favorable action.”

#### **Alcoholic Beverage Control Commission Fees**

SECTION 426. The first paragraph of section 18 of said chapter 138, as most recently amended by section 2 of chapter 228 of the acts of 2002, is hereby further amended by striking out the last 2 sentences and inserting in place thereof the following 2 sentences:—

The license fee for a license issued under this section to sell and import all alcoholic beverages shall be \$10,000. The license fee for a license issued under this section to sell and import wines and malt beverages only shall be \$5,000; provided, that the license fee for a license issued under this section to sell wines for sacramental use shall be \$3,000.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 427. Section 18A of said chapter 138 is hereby amended by striking out, in line 23, as appearing in the 2000 Official Edition, the words “one thousand dollars” and inserting in place thereof the following figure:— \$5,000.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 428. Section 18B of said chapter 138 is hereby amended by striking out, in line 16, as so appearing,, the words “shall not exceed ten dollars” and inserting in place thereof the following words:— shall be no less than \$200.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 429. Section 19 of said chapter 138 is hereby amended by striking out, in lines 41 and 42, as so appearing, the words “not less than two thousand nor more than five thousand dollars” and inserting in place thereof the following words:— not less than \$6,000 nor more than \$10,000.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 430. Section 19A of said chapter 138 is hereby amended by striking out, in line 9, as so appearing, the words “fifteen dollars” and inserting in place thereof the following figure:— \$200.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 431. Section 20 of said chapter 138, as so appearing, is hereby amended by striking out the first three paragraphs and inserting in place thereof the following three paragraphs:—

The commission may grant to any holder of a manufacturer's, farmer-winery, farmer-brewery or wholesaler's and importer's license under this chapter a permit to store in any city or town those alcoholic beverages which such licensees are authorized to manufacture, produce or sell; provided, that there shall not be granted to such manufacturer, farmer-winery, farmer-brewery, or wholesaler and importer, in the aggregate, more than 3 such permits in the commonwealth, not more than 1 such permit in any city or town. A permit so granted to the holder of such a license shall authorize him to deliver such beverages from any place of storage for which he has such a permit upon orders, which need not be in writing, received by him at the premises covered by his manufacturer's, farmer-winery, farmer-brewery or wholesaler's and importer's license and transmitted to the place of storage covered by the permit. The commission may establish annual fees thereof not exceeding \$2,000 for any 1 permit.

Special warehouse permits may be granted by the commission for the storage of alcoholic beverages in a duly licensed bonded warehouse. A special permit so granted shall authorize the holder thereof to transfer such beverages between any premises for which he has such special permit and any premises covered by his manufacturer's, farmer-winery, farmer-brewery or wholesaler's and importer's license. The fee for such a special permit shall be not less than \$125 nor more than \$1,000.

Special seasonal permits may be granted by the commission upon payment of a fee of \$500 for each such permit, which shall authorize any licensee under section 18 or 19 to store malt beverages in the same city or town in which their licensed premises are located; provided, that such storage shall be in a place properly equipped for the refrigeration of malt beverages and that such an authorization shall be effective only for the period between April first and October thirty-first in any year.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 432. Section 20A of said chapter 138, as so appearing, is hereby amended by striking out, in line 10, the words "ten dollars" and inserting in place thereof the following figure:— \$500.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 433. Section 22 of said chapter 138, as so appearing, is hereby amended by striking out, in line 20, the words "thirty dollars" and inserting in place thereof the following figure:— \$150.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 434. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 25, the words "three hundred dollars" and inserting in place thereof the following figure:— \$1,500.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 435. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 31, the words "twenty-five dollars" and inserting in place thereof the following figure:— \$150.

#### **Alcoholic Beverage Control Commission Fees**

SECTION 436. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 34, the words "five dollars" and inserting in place thereof the following figure:— \$50.

#### **EOEA Reorg 175**

SECTION 437. Section 35 of chapter 138, as so appearing, is hereby amended by inserting after the words "under its care", in line 3, the following words:- within the metropolitan parks district.

#### **Fee Increase for Dealers License**

SECTION 438. Section 122 of chapter 140 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking the seventh sentence and inserting in place thereof the following sentences:—

The fee for an application for a license issued under this section shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

#### **Ammunition Licenses Fees**

SECTION 439. Section 122B of said chapter 140, as so appearing, is hereby amended by striking the fifth sentence and inserting in place thereof the following sentences:—

The fee for an application for a license to sell ammunition shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

#### **Firearms Identification Card Fees**

SECTION 440. Clause (9) of section 129B of said chapter 140, as so appearing, is hereby amended by striking the fourth and fifth sentences and inserting in place thereof the following sentences:—

The fee for such application shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. However, any renewal applicant for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be subject to such application fee.

#### **License to Carry Firearms Fees**

SECTION 441. Subsection (i) of section 131 of said chapter 140, as so appearing, is hereby amended by striking the fourth sentence and inserting in place thereof the following sentences:—

The fee for such application shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. For law enforcement officials, or local, state, or federal government entities acting on their behalf, the fee for such application shall be set at \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$12.50 of such fee, and \$12.50 of such fee shall be deposited into the general fund of the commonwealth.

#### **Permits to Purchase Firearms Fees**

SECTION 442. Section 131A of said chapter 140, as so appearing, is hereby amended by striking the second paragraph and inserting in place thereof the following paragraph:—

The fee for such permits shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

#### **Non-Residents and Non-Resident Aliens Firearms Fees**

SECTION 443. Section 131F of said chapter 140, as so appearing, is hereby amended in the fourth paragraph by striking the third sentence and inserting in place thereof the following sentences:—

The fee for an application for such license shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

#### **Resident Aliens Firearms Fees**

SECTION 444. Section 131H of said chapter 140, as so appearing, is hereby amended by striking the third sentence and inserting in place thereof the following sentences:—

The fee for such permit shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, \$50 of such fee shall be deposited into the general fund of the commonwealth, and \$25 shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

#### **EOEA Reorg 176**

SECTION 445. Section 38 of chapter 149, as so appearing, is hereby amended by striking out, in line 2, the words "or the metropolitan district commission".

#### **EOEA Reorg 177**

SECTION 446. Said section 38 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 2, the words "or metropolitan commission".

#### **EOEA Reorg 178**

SECTION 447. Section 44 of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the words ", or of the metropolitan district commission,".

#### **EOEA Reorg 179**

SECTION 448. Said section 44 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "by the metropolitan district commission or".

#### **EOEA Reorg 180**

SECTION 449. Said section 44 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 8, the words "by the said commissioner or".

#### **Massachusetts Commission Against Discrimination Fees**

SECTION 450. The first paragraph of section 3 of chapter 151B of the General Laws, as so appearing, is hereby amended by adding the following <sup>new</sup> clause:—

15. To set, charge and retain fees and costs, subject to the provisions of section 3B of chapter 7, including, but not limited to, training fees and costs incurred responding to requests under the commonwealth's public records law; provided, that the commission may, where appropriate, provide for the waiver of the fees; to retain reasonable attorney's fees and costs awarded to a prevailing complainant, under section 5, when one of its attorneys presents the charge of discrimination before the commission on behalf of the prevailing complainant. All amounts received under this clause shall be deposited to the General Fund.

#### **Massachusetts Commission Against Discrimination Penalties and Damages**

SECTION 451. Section 5 of said chapter 151B is hereby amended by striking the last paragraph, as so appearing, and inserting in place thereof the following paragraph:—

If, upon all the evidence at any such hearing, the commission shall find that a respondent has engaged in any such unlawful practice, it may, in addition to any other action which it may take under this section, assess a civil penalty against the respondent:

- (a) in an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice;
- (b) in an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other discriminatory practice during the 5-year period ending on the date of the filing of the complaint; and
- (c) in an amount not to exceed \$50,000 if the respondent has been adjudged to have committed two or more discriminatory practices during the seven year period ending on the date of the filing of the complaint. Notwithstanding the aforesaid provisions, if the acts constituting the discriminatory practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory practice, then the civil penalties set forth in clauses (b) and (c) may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred.

#### **Disposition of Evasion of Payment of Fare as a Civil Infraction**

SECTION 452. Section 16 of chapter 159A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting the following paragraph at the end thereof:- The court shall treat a violation of this section as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to any term of incarceration nor be entitled to appointed counsel pursuant to chapter 211. An adjudication of responsibility under this section may include an order of restitution. An adjudication of responsibility under this section shall neither be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

#### **RTA Membership – 1**

SECTION 453. The first paragraph of section 9 of chapter 161A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the sixth sentence and inserting in place thereof the following 2 sentences:- Beginning on July 1, 2001, a city or town that is also a member of a regional transit authority or that at any time joins a regional transit authority shall have 100 per cent of the amount assessed for the operation of the regional transit authority credited against its share of the assessment made under this section. The amount credited shall not exceed the total amount of the assessment.

#### **RTA Membership – 2**

SECTION 454. Section 3 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Any city or town, or group or combination of cities or towns, other than a city or town included in the Massachusetts Bay Transportation Authority that receives fixed route bus service or is in an authority established pursuant to section 14 may, by a majority vote of the city council or of the town meeting or majority vote of any other legislative body, respectively, and subject to the approval of the advisory board to a regional transit authority, join an authority which is not separated from the city or town or group or combination of cities and towns by more than one other municipality.

#### **Regional Transit Authorities Budget Submission Prerequisite**

SECTION 455. Section 8 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking out paragraph (h) and inserting in place thereof the following paragraph:—

(h) All current expenses of the authority shall be in accordance with an annual budget prepared by the administrator and submitted to the advisory board no later than April 1 of each year for the ensuing fiscal year. An authority may not submit an annual budget to its advisory board for approval without first submitting said budget to the secretary of the Executive Office of Transportation and Construction who shall provide written approval of said budget as submitted or subject it to such itemized reductions therein and then shall provide written approval of said reduced budget. On or before June 1 the advisory board shall approve the budget as submitted or subject it to such itemized reductions therein as the advisory board shall deem appropriate.

#### **Intercity Bus Capital Assistance Fund Repeal**

SECTION 456. Section 6 of chapter 161D of the General Laws is hereby repealed.

#### **EOEA Reorg 181**

SECTION 457. Section 69H1/2 of chapter 164 of the General Laws, as so appearing,, is hereby amended by striking out, in lines 17 and 18, the words “department of fisheries, wildlife and recreational vehicles”.

#### **Fees for Appointments of Insurance Producers**

SECTION 458. Section 14 of chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting, after line 66, the following clause:— For each insurance agent appointment or renewal thereof under section 162S;.

#### **First Responder Surcharge**

SECTION 459. Chapter 175 of the General Laws, as appearing in the 2000 official edition, is hereby amended by inserting after section 14A the following section:-

Section 14B. (a) Beginning on July 1, 2003, the division of insurance shall require a mandatory first responder surcharge to support emergency public safety services. Said surcharge shall be equal to 2.29 per cent of all new and renewal premiums for the following lines of

insurance, as categorized in the annual statement instructions and accounting practices and procedures manual adopted by the National Association of Insurance Commissioners, and referred to in section 25 of said chapter 175: line 4, homeowners insurance; line 5.1, commercial multiperil (non-liability portion) insurance; and line 5.2, commercial multiperil (liability portion) insurance. Said surcharge shall be in addition to any payments made in accordance with sections 20 to 29E, inclusive, of chapter 63.

(b) Payments pursuant to subsection (a) shall be made quarterly and shall be based on the values set forth in each company's most recent annual statement submitted pursuant to section 25 of said chapter 175. The division shall institute a schedule of late fees to enforce timely payment of the amounts required in subsection (a). The division shall set forth in the annual report required pursuant to section 17 of said chapter 175 an accounting of all payments collected pursuant to this section.

(c) Subject to appropriation, the revenues derived from said surcharge shall support municipal police, fire, and emergency medical services.

#### **Division of Insurance Fees**

SECTION 460. Chapter 175 of the General Laws, as amended by this act, is hereby further amended by inserting after section 14B the following new section:-

Section 14C. Notwithstanding section 14 of chapter 175, the division of insurance shall charge an annual fee of \$100 on all life and health insurance agents duly licensed by the Commonwealth, receipts of which shall be payable into the general fund. This fee shall go into effect immediately upon enactment of this act.

#### **Insurers Information –Sharing with Departments**

SECTION 461. Chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 24D the following section:-

Section 24E. (a) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, every company authorized to issue policies of insurance pursuant to this chapter shall provide information to the division of medical assistance and the department of transitional assistance, for use by said agencies for the purpose of recovering public assistance benefits pursuant to section 5G of chapter 18 and section 22 of chapter 118E. Information shall be provided (1) within 10 business days of the company receiving a claim and (2) within 30 calendar days before making any nonrecurring payment equal to or more than \$500.

(b) The company shall either (1) electronically enter into a database maintained by said agencies the claimant's social security number and such other information appearing in the company's files as said agencies may require or (2) using a method and format prescribed by the agencies, provide information about the claimant, including the claimant's name, address, date of birth, social security number, and such other information appearing in the company's files as said agencies may require if providing that information does not require the company to violate the claimant's rights to privacy under state or federal law.

(c) A company shall provide further information requested by the agencies within five business days of receipt of any request and at least 10 business days prior to making payment.

(d) For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured under a liability insurance policy or the liability coverage portion of a multiperil policy or a beneficiary under a life insurance policy.

(e) Individuals making claims governed by this section shall include their current address, date of birth and social security number as part of any claim filed with an insurance company.

(f) The division of medical assistance, the department of transitional assistance and the Title IV-D agency shall provide a single point of entry for transmitting information electronically or for providing information required under this section and section 24D. The division of medical assistance and the department of transitional assistance shall provide the Title IV-D agency with access to information regarding individuals receiving assistance under their programs for that purpose and so that a company can be informed if the claimant or the claimant's heirs or legal representative may owe monies to the division or the department.

(g) In the event of a state of emergency declared by the governor or the president of the United States, the commissioner of insurance may temporarily suspend the application of this section to claims made due to the conditions resulting in such state of emergency.

#### **Increasing the Third Party Insurance Cap for Early Intervention Clients 1**

SECTION 462. The third paragraph of section 47C of chapter 175 of the General Laws, as appearing in section 8 of chapter 203 of the acts of 2001, is hereby amended by striking out the words "\$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period" and inserting in place thereof the following words:-\$4,100 per year per child and an aggregate benefit of \$12,300 over the total enrollment period.

#### **Increasing the Third Party Insurance Cap for Early Intervention Clients 2**

SECTION 463. The third paragraph of section 8B of chapter 176A of the General Laws, as appearing in section 9 of chapter 203 of the acts of 2001, is hereby amended by striking out the words "\$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period" and inserting in place thereof the following words:- \$4,100 per year per child with an aggregate benefit of \$12,300 over the total enrollment period.

#### **Increasing the Third Party Insurance Cap for Early Intervention Clients 3**

SECTION 464. The third paragraph of section 4C of chapter 176B of the General Laws, as appearing in section 10 of chapter 203 of the acts of 2001, is hereby amended by striking out the words "\$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period" and inserting in place thereof the following words:- \$4,100 per year per child with an aggregate benefit of \$12,300 over the total enrollment period.

#### **Increasing the Third Party Insurance Cap for Early Intervention Clients 4**

SECTION 465. The second paragraph of section 4 of chapter 176G of the General Laws, as appearing in section 11 of chapter 203 of the acts of 2001, is hereby amended by striking out the words “\$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period” and inserting in place thereof the following words:- \$4,100 per year per child with an aggregate benefit of \$12,300 over the total enrollment period.

#### **Housing Court Fee Increase**

SECTION 466. Chapter 185C of the General Laws, as appearing in the 2000 Official Edition, as most recently amended by chapter 184 of the acts of 2002, is hereby amended by striking out section 19 and inserting in place thereof the following section:—

Proceedings shall be commenced in the housing court department as follows: a criminal case by complaint in like manner as in the district court department, a civil action in accordance with the Massachusetts Rules of Civil Procedure; provided, however, that a summary process action and a small claims action shall be commenced and administered in accordance with rules promulgated with the approval of the supreme judicial court. Clerks of the housing court department shall charge a fee of \$120 for the entry of an action, for the filing of a third-party complaint, and for the filing of a motion to intervene as plaintiff, which shall be paid by the party entering or filing the same; and no other fee shall be charged for taxing costs, for issuing any subpoena or execution or for issuing any order of notice or other mesne, interlocutory or final order, rule, decree of process authorized by law, except a temporary restraining order or preliminary injunction for the issuance of which the clerk shall charge \$75; provided, however, that no fee for the entry of an action or for the issuance of a temporary restraining order or preliminary injunction shall be charged to the commonwealth or political subdivision thereof.

Notwithstanding that a proceeding under this chapter is commenced by complaint, if it is found that the offense charged was not willful, intentional, reckless or repeated, the proceeding shall not be deemed criminal and no record of the case shall be entered in the probation records.

#### **Estate Recovery Technical Correction**

SECTION 467. Section 9 of chapter 197 of the General Laws, as so appearing, is hereby amended by striking subsection (d) and inserting in place thereof the following:—

(d) If a deceased received medical assistance under chapter 118E when such deceased was 55 years of age or older or while an inpatient in a nursing facility or other medical institution, section 32 of chapter 118E shall govern the notice to be given to the division of medical assistance and such division's claim for recovery under the provisions of section 31 of chapter 118E if the division so chooses.

#### **Court Reform I**

SECTION 468. Chapter 211B of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:—“ADMINISTRATION OF THE JUDICIAL DEPARTMENT”.

#### **Court Reform II**

SECTION 469. Section 5 of said chapter 211B, as so appearing, is hereby amended by striking out, in line 6, the words "for administration and management" and inserting in place thereof the following words:- of the supreme judicial court, with the approval of a majority of that court.

#### **Court Reform III**

SECTION 470. Said section 5 of said chapter 211B, as so appearing, is hereby further amended by striking out, in lines 10 and 11, the words "for administration and management" and inserting in place thereof the following words:- of the supreme judicial court, with the approval of a majority of that court,.

#### **Court Reform IV**

SECTION 471. Said chapter 211B is hereby amended by striking out section 6 and inserting in place thereof the following 3 sections:

Section 6. (a) There shall be a judicial council, in this section and section 6A called the council, which shall be the policy-making body for, and shall oversee the administration and management of, the judicial department. The council shall consist of the chief justice of the supreme judicial court, who shall chair the council, and the chief justices of the appeals court, and of the Boston municipal court, housing court, land court, superior court, district court, juvenile court, and probate and family court departments. A member of the council may from time to time appoint another justice of the same court to act in the member's place. The chair may designate a vice-chair to act in the absence of the chair. Council members shall act in the best interests of the public and of the entire judicial department.

(b) The council shall:

(1) set the direction and provide leadership for improving the quality of justice and advancing its consistent, independent, impartial, and accessible administration on behalf of the public and the entire judicial department;

(2) improve the administration of justice by:

(i) surveying judicial business;

(ii) making recommendations to the courts;

(iii) making annual recommendations to the governor and the general court;

(iv) adopting rules for court administration and rules of practice and procedure that are not inconsistent with law; and

(v) performing other functions prescribed by law.

(3) establish policies and set priorities for the judicial department. The council may seek advice and recommendations from committees, task forces, and the public, and shall receive such advice and recommendations from the advisory board established by section 6B;

(4) make a comprehensive survey of the condition of business in the courts of the commonwealth and shall submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business;



- (5) carry on a continuous study of the operation and effect of the general rules of practice and procedure now or later in use in the commonwealth, and make changes in and additions to those rules as the council may consider desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay;
- (6) develop policies to achieve the following goals:

- (i) the improvement of access, fairness, and diversity in the judicial branch;
- (ii) the institutional independence of the judiciary as a separate branch of government with the resources necessary for its support and the independence and impartiality of judicial decision-making;
- (iii) the modernization and improvement of judicial administration practices;
- (iv) fair and responsive judicial service to the public in all courts; and
- (v) the promotion of the goals of the judicial council through judicial department education and professional development.

Section 6A. (a) There shall be a chief administrator of the courts, in this chapter called the administrator, who shall be selected and may be removed by the chief justice of the supreme judicial court, subject to the approval of a majority of the council. The administrator shall serve as secretary to the council. The administrator shall receive a salary equal to 90 per cent of the salary of the chief justice of the supreme judicial court.

(b) The administrator, under the supervision of the chair of the council, shall employ, organize and direct a staff to be known as the administrative office of the courts. The administrative office shall assist the council in carrying out its duties. The administrative office shall annually submit to the council a management report that describes its current activities and internal operations. The administrator shall submit to the general court on the first working day of December in each year a report of the proceedings of the council and its recommendations for legislation.

(c) The administrator, under the supervision and direction of the council, shall:

- (1) supervise all administrative matters relating to the offices of clerks and other clerical and administrative personnel of the courts;
- (2) examine the state of the dockets of the courts; secure information as to the courts' need of assistance; prepare and transmit semiannually to the council, statistical data and reports as to the business of the courts;
- (3) submit to an annual meeting of the council, at least 2 weeks before the meeting, a report of the activities of the administrative office and the state of the business of the courts, together with the statistical data submitted by the justices of the lower courts.
- (4) submit to the governor and the general court copies of the report, data and recommendations;
- (5) fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants and other employees of the courts whose compensation is not otherwise fixed by law;
- (6) disburse appropriations and other funds for the maintenance and operation of the courts;
- (7) establish pretrial services;
- (8) audit vouchers and accounts of the courts, the offices providing pretrial services, and their clerical and administrative personnel;
- (9) establish a program for the certification and utilization of interpreters in courts of the commonwealth;
- (10) establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral.
- (11) establish a program of incentive awards for employees of the judicial branch.

Section 6B. There shall be an advisory board to assist the judicial council and the administrator in their management of the judicial department. The board shall consist of the attorney general, the governor's chief legal counsel, or their designees, and the following additional members appointed by the supreme judicial court: 2 persons who have significant experience in public administration, 2 persons who have significant experience in business administration, 1 lawyer with significant experience in the practice of criminal law, 1 lawyer with significant experience in the practice of civil law, 1 lawyer with significant experience in the practice of probate and family law, 1 lawyer with significant experience in the representation of juveniles in the courts, 1 lawyer with significant judicial experience but not a current judge of the commonwealth, 1 person who has significant experience in the advocacy for victims of crime, and 1 person who has significant experience in information technology. The board shall choose its chair. The administrator shall be the secretary of the board.

The board shall advise the judicial council and the administrator on all matters of judicial reform, including but not limited to: (a) procedures and regulations to require that courts must allocate resources based on the demonstrated workload of each court; (b) whether any courts should be closed; and (c) what reforms, if any, are warranted to the Boston municipal court's structure, jurisdiction, administration, and allocation of resources.

## **Court Reform V**

SECTION 472. Section 12 of said chapter 211B is hereby repealed.

## **Confirmation of Indigency**

SECTION 473. Chapter 211D of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting the following section:

Section 2½. Notwithstanding the provisions of any other law, a criminal defendant seeking appointment of counsel shall execute an affidavit stating under the pains and penalties of perjury that he meets the definition of indigency promulgated under section 2 of chapter 211D of the General Laws. A criminal defendant claiming indigency shall further be required to execute a waiver authorizing the court's chief probation officer to obtain the defendant's wage and tax information from the department of revenue and any relevant information from the department of transitional assistance that the court may find useful in verifying the defendant's claim of indigency.

## **Court Reform VI**

SECTION 474. Section 14A of chapter 212 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

No justice of the superior court department shall be assigned for a period of less than 1 year to a place where the court sits, unless the chief justice certifies in writing a compelling need for a shorter period in each instance.

## **District Court Filing Fee Increase**

SECTION 475. Section 22 of chapter 218 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words “ten dollars for claims of five hundred dollars or less and fifteen dollars for claims of greater than five hundred dollars,” and inserting in place thereof the following words:— “\$20 for claims of \$500 or less and \$30 for claims of greater than \$500”.

#### **Court Reform VII**

SECTION 476. Section 34A of chapter 221 of the General Laws is hereby repealed.

#### **Board of Bar Examination Fee Increases**

SECTION 477. Section 37 of said chapter 221, as most recently amended by section 122 of chapter 184 of the acts of 2002, is hereby further amended by striking out the fourth sentence and inserting in place thereof the following 4 sentences:—

A petitioner to be examined for admission shall pay to the clerk of the court in which his petition is filed a fee of \$800 upon the entry of his petition and a further fee of \$800 upon the entry of any subsequent petition. A member of the bar of any other state who applies to be admitted without examination shall pay to the clerk of the court in which his petition is filed a fee of \$1,000. Any person who requests to have his bar examination scores transferred to another jurisdiction shall pay a fee of \$25 for each transfer. If the board determines to allow petitioners for examination to use approved computers in connection with any portion of the examination, petitioners who use such computers shall pay a fee of \$75 for such use.

#### **EOEA Reorg 182**

SECTION 478. Section 8 of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words “metropolitan district commission”.

#### **Codifying the SANE Program**

SECTION 479. Chapter 233 of the General Laws, as appearing in the 2000 Official Edition, is hereby further amended by inserting, after section 23F, the following section:-

Section 23G. Certification by the commissioner of the department of public health as a sexual assault nurse examiner under section 219 of chapter 111 shall be prima facie evidence of such individual's qualifications and expertise for purposes of qualifying the witness as an expert witness with respect to forensic evidence collected during the physical examination of the victim of a sexual assault or rape including but not limited to evidence collected through use of the standardized kit for the collection and preservation of evidence in rape cases under section 97B of chapter 41.

#### **Homelessness Initiative I**

SECTION 480. Section 9 of chapter 239 of the General Laws, as so appearing, is hereby amended by adding the following sentence:-- In allocating state housing resources, the department of housing and community development shall give priority to persons granted a stay of execution pursuant to this section.

#### **EOEA Reorg 183**

SECTION 481. Section 4A of chapter 252 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 through 4, the words, “, or through the metropolitan district commission in respect to the metropolitan parks or water district or either metropolitan sewerage district,”

#### **EOEA Reorg 184**

SECTION 482. Section 4 of chapter 260 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words “of the metropolitan district commission,”

#### **Filing Fees for Civil Actions in the District and Boston Municipal Courts**

SECTION 483. Chapter 262 of the General Laws, as most recently amended by section 131 of chapter 184 of the acts of 2002, is hereby further amended by striking out section 2 and inserting in place thereof the following section:—

The fees of the clerks of the district and Boston municipal court departments of the trial court in civil actions, shall be as follows:

For the entry of a complaint, third-party complaint, petition or other action, and for the filing of a motion to intervene as plaintiff, \$180.

For the entry of supplementary proceedings under chapter 224, \$30, which, together with the fees of witnesses and officers in such proceedings, shall be allowed the creditor as costs.

For the entry of a claim of trial by the superior court under section 104 of chapter 231, \$180.

For approving or disapproving by the court of sureties on bonds or recognizances, except bonds given for removal of actions to the superior court, \$60.

For the entry of a civil appeal in the appellate division of the district court department, \$180.

Notwithstanding the foregoing, for the entry of a complaint, petition, appeal or other action or removal from the district court by the commonwealth, no fee shall be paid; but, if the commonwealth prevails in the action, the fee shall be taxed against the other party.

#### **Supreme Judicial Court/ Appeals Court Fee Increases**

SECTION 484. Said chapter 262 is hereby further amended by striking out section 4, as most recently amended by section 134 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:—

Section 4. The fees of the clerks of the supreme judicial court for the commonwealth and for each of the counties and for the appeals court shall be as follows:

For the entry of a complaint, petition, appeal or other action, \$300.

For the filing of an application for further appellate review, \$270.

For the issuance of an injunction or restraining order, \$90.

Notwithstanding the foregoing, for the entry of an appeal, petition, complaint or other action and for the filing of an application for further appellate review by the commonwealth, no fee shall be paid and no fee shall be charged to the commonwealth for the issuance of an injunction or restraining order; but, if the commonwealth prevails in the action, the fees shall be taxed against the other party.

#### **Superior Court Fee Increases**

SECTION 485. Said chapter 262 is hereby further amended by striking out section 4A, as most recently amended by section 137 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:—

Section 4A. The fees of clerks of court of the superior court department of the trial court shall be as follows:

For the entry in the superior court department of the trial court of a complaint, third-party complaint, petition or other action, and for the filing of a motion to intervene as plaintiff, \$240.

For the filing of a petition to the county commissioners, \$30, except that no fee shall be required from a municipality filing a petition to the county commissioners for the county in which it is located.

For the issuance of an injunction or restraining order, \$90.

The clerk shall collect, for every civil case, a \$20 security fee.

Notwithstanding the foregoing, for the entry of a complaint, petition or other action by the commonwealth no fee shall be paid and no fee shall be charged to the commonwealth for the issuance of an injunction or restraining order; but, if the commonwealth prevails in the action, the fees shall be taxed against the other party.

#### **Surcharge for Filing Fee Increase – Any Civil Action**

SECTION 486. Section 4C of said chapter 262, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words “ten dollars” and inserting in place thereof the following figure:— \$15.

#### **Surcharge for Filing Fee Increase – Small Claims**

SECTION 487. Said section 4C of said chapter 262, as so appearing, is hereby further amended by striking out, in line 6, the words “four dollars” and inserting in place thereof the following figure:— \$10.

#### **Regarding the Fees for Civil Process and Criminal Process**

Section 488. Section 8 of said chapter 262, as appearing in the 2000 Official Edition, is hereby amended by striking it in its entirety and inserting in place thereof the following:—

Section 8. The fees of sheriffs, deputy sheriffs and constables shall be as follows:

A. For the service of civil process:

(1) For service of an original summons, trustee process, subpoena or scire facias, either by reading it or by leaving a copy thereof, \$20 for each defendant upon whom service is made, except as herein otherwise provided.

(2) For service of an original summons and complaint for divorce or for any other service required to be served in hand, \$30 for each defendant upon whom service is made.

(3) For attestation of each copy of a writ, precept or process, except, as herein otherwise provided, \$5.

(4) If the officer by the direction of the plaintiff or his attorney makes a special service of a writ or precept, either by attaching personal property or arresting the body, he shall be entitled to \$2 for each defendant upon whom the writ is so served, and \$8 additional for custody of the body arrested, and at the same rate for each day during which he has such custody. If the officer employs an assistant in the arrest of the body, he shall be entitled to \$5 a day for such assistant.

(5) For the custody of personal property attached, replevied or taken on execution, not more than \$50 for each day of not more than eight hours for the keeper while he is in charge, and not more than \$20 a day for the officer for a period not longer than ten days; but the officer may be allowed a greater compensation for himself or his keeper, or compensation for a longer period, by the consent of the plaintiff, or by order of the court upon a hearing. He shall also be entitled to expenses for packing, labor, teaming, storage and taking and preparing a schedule of property attached, replevied or taken on execution, if he certifies that such expenses were necessary and are reasonable.

(6) For an attachment on mesne process of land or of any leasehold estate, \$20 for each defendant against whom an attachment is made, 32 cents a mile each way for travel from the place of service to the registry, and his fee for the copy deposited in the registry of deeds or land court, together with the recording fees actually paid.

(7) For a special attachment of real estate, \$10 additional for each person against whom an attachment is made.

(8) For the service of a writ of replevin: for seizure of property, \$10 for each defendant; securing and swearing appraisers, \$4, and the actual amount paid to appraisers, as hereinafter provided; examining and approving sureties, \$5; delivery of property replevied, \$5; for each service, \$5 for each copy, at the rate hereinbefore provided for copies of writs, precepts or other processes.

(9) For a levy on real estate:

(a) For preparing and serving notice of sale, a fee not to exceed \$50, plus travel.

(b) For posting notices of sale, \$20, plus travel.

(c) The necessary expenses of advertising.

(d) For the sale of land or of any leasehold estate, \$20.

(e) For preparing, executing and acknowledging deed, \$25.

(f) For travel, 32 cents a mile each way from the place where he receives the execution to the office of the register of deeds, and his fee for the copy.

(10) For a sale of personal property on mesne process or on execution the following:

(a) For service of a copy of notice to appoint appraisers, \$8 for each person upon whom service is made.

(b) The necessary expenses of taking and preparing a schedule of property proposed to be sold.

(c) For attendance upon and swearing appraisers, \$10.

(d) The amount actually paid to appraisers as hereinafter provided.

(e) For preparing and posting notice of a proposed sale, \$10, plus travel.

(f) The necessary expenses of keeper, labor and advertising.

(g) For custody of property, \$10 a day.

(h) For services as auctioneer, or for services of an auctioneer in selling property, a fair and reasonable amount.

(i) If the sale is made on execution, poundage may be charged as hereinafter provided.

(j) The fair compensation for the services of an appraiser shall not be more than \$30 for each day's service, but the officer may be allowed a greater compensation for the appraisers by an order of the court.

(k) For each adjournment of sale of real or personal property, \$10.

(11) For taking bail and furnishing and writing the bail bond, \$2, which shall be paid by the defendant, and taxed in his bill of costs, if he prevails.

(12) For serving an execution in a personal action by copy and demand on debtor or on trustee, \$10 and travel, if the execution is not collected in whole or in part; for serving an execution in a personal action, and collecting damages or costs on an execution, warrant of distress or other like process, for an amount not exceeding \$100, 10 cents for every dollar; all above \$100, and not exceeding \$500, 5 cents for every dollar; and all above \$500, 2 cents for every dollar; but such percentage shall be allowed only upon the amount actually collected. A levy of the execution upon his body shall be considered, so far as the fees of the officer are material, a full satisfaction of the execution if the debtor has recognized with surety or sureties as required by law.

(13) For serving a writ of seisin or possession in a real action, \$15 for each parcel.

(14) For serving an execution upon a judgment for partition, or for assignment of dower or curtesy, \$2 per day.

(15) For serving a writ of capias, a writ of habeas corpus, a writ of ne exeat, or other process of civil arrest in a civil proceeding, \$50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel.

(16) For serving a venire or notice to jurors for attendance upon any court, civil or criminal, \$10 for each person upon whom service is made.

(17) For summoning witnesses, \$20 for each person upon whom service is made, and \$2 for each copy served, together with the fee paid to the witness.

(18) For dispersing treasurer's process warrants and proclamations of all kinds, \$4 each.

(19) For travel in the service of original writs, executions, warrants, summonses, subpoenas, notices and other processes, 32 cents a mile each way, to be computed from the place of service to the court or place of return; and if the same precept, or process is served upon more than one person, the travel shall be computed from the most remote place of service, with such further travel as was necessary in serving it; if the distance from the place of service to the place of return exceeds twenty and does not exceed fifty miles, 32 cents a mile one way only shall be allowed for all travel exceeding twenty miles, and, if it exceeds fifty miles, only 6 cents a mile one way shall be allowed for all travel exceeding that distance.

(20) For travel in the service of venires and notices to jurors, 32 cents a mile for the distance actually traveled.

(21) For posting warrants, for notifying town meetings or for other purposes, \$5 for each copy posted together with 32 cents a mile for the distance actually traveled.

B. For the service of criminal process:

(1) For serving a warrant of capias in a criminal proceeding, \$50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel, and of a summons upon the defendant, \$20, for each person upon whom the same is served.

(2) For a copy of a mittimus, warrant or other precept required by law in criminal cases, \$5.

(3) For service of a witness, summons or subpoena in criminal cases, \$20 plus travel in the amount of 32 cents a mile each way for a distance of not more than twenty miles, and for any excess over twenty miles, 7 cents a mile each way, and no more. The distance shall be computed from the most remote place of service to the place of return, but upon a subpoena the court shall reduce the fee for travel to a reasonable amount for the service performed if the travel charged has not been actually performed by the officer who made the service.

(4) For service of an order of notice under chapter two hundred and seventy-three A, \$20.

#### **Domestic Violence and Family Health Preservation Trust Fund**

SECTION 489. Section 34 of Chapter 262 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking, in line 78, the words "four dollars" and inserting in place the following: "fifty dollars, of which forty-six dollars shall be deposited in the Trust Fund for the Prevention of Sexual and Domestic Violence".

#### **Register of Probate and Family Court Fee Increases**

SECTION 490. Chapter 262 of the General Laws is hereby further amended by striking out section 40 and inserting in place thereof the following section:—

Section 40. The fees of registers of the probate and family court department of the trial court, shall be as follows:

For the entry of a complaint for divorce or for affirming or annulling marriage, except as provided hereinafter for an action in equity, \$200.

For the entry of an action for separate support, \$100.

For the entry of a petition for the probate of a will, for administration of the estate of a person deceased intestate, of a petition for administration of goods not already administered, with the will annexed or otherwise, of a petition under section 35 or 36 of chapter 209 by a husband or wife for authority to convey land as if sole, of a petition for partition, of a petition for change of name, of a petition for leave to carry

on the business of the deceased, and for the entry of a petition for the appointment of a special administrator, conservator, trustee, receiver of the estate of an absentee, or a guardian except when the petitioner certifies that the ward's estate does not exceed one hundred dollars, \$150.

For filing a representation of insolvency, \$150.

For the entry of a petition for leave to lease real estate of a petition for specific performance, of a petition for leave to mortgage real estate of a petition in equity except such as relates to separate support, adoption, or the custody or support of minors, of a petition for release of dower or courtesy, of a petition for letters to a foreign guardian, of a petition for leave to compromise, and of a petition for leave to pay debts, except when the petitioner or accountant certifies that the estate does not exceed one thousand dollars in value, \$75.

For the entry of a general petition except such as relate to adoption, or custody or support of minors, \$150.

For the entry of petitions for the removal of a fiduciary, \$100.

For the amendment of record except such as relates to separate support, adoption, or the custody or support of minors, for discharge of surety, for care of burial lot and for erection of a monument, \$60 each.

For new bond and for new inventory, \$75 each.

For filing a statement of voluntary administration, \$100.

For the petition or application for allowance of an account where the gross value accounted for in Schedule A of said account is \$1,000 or less, no fee; where said gross value is more than \$1,000 but less than \$10,000, \$75 a year; provided, however, that the fees shall not exceed \$170, regardless of the time covered by the account; where said gross value is not more than \$100,000 and not less than \$10,000, \$100 for each year or major fraction thereof covered by such account; where said gross value is not more than \$500,000 and not less than \$100,000, \$150 for each year or major fraction thereof covered by such account; where said gross value is more than \$500,000 and not more than \$1,000,000, \$200 for each year or major fraction thereof covered by such account; where said gross value is more than \$1,000,000, \$400 for each year or major fraction thereof covered by such account.

For the petition or application for sale of real or personal estate an account where the gross value accounted for is less than \$100,000 or less, \$100; where said gross value is more than \$100,000 but less than \$250,000, \$250; where said gross value is more than \$250,001 but less than \$500,000, \$500; where said gross value is more than \$500,001 but less than \$1,000,000, \$750; where said gross value is more than \$500,000 but not more than \$1,000,000, \$200; where said gross value is over \$1,000,000, \$1000.

For filing a motion for change of name, \$100.

For filing a motion for the framing of jury issues, \$140.

For filing a will for safekeeping, \$75; provided, that no additional fee shall be charged for filing a will in substitution for a will previously filed and withdrawn.

For filing a bond, \$50.

For issuance of an injunction, \$150.

For issuance of a temporary restraining order, \$100.

For entry of an action for the modification of a decree, \$150.

Notwithstanding the provisions of this section, no fee shall be charged for the filing of a complaint to modify a temporary order or final judgment relating to support, maintenance or education of a child nor for the issuance of a temporary restraining order against a spouse related to a complaint for divorce or separate support.

#### **EOEA Reorg 185**

SECTION 491. Section 56 of chapter 262 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words ", other than a police officer of the metropolitan district commission,".

#### **EOEA Reorg 186**

SECTION 492. Section 33 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the second sentence.

#### **Probation Service Fees Increase**

SECTION 493. Section 87A of chapter 276 of the General Laws, as most recently amended by section 13 of chapter 300 of the acts of 2002, is hereby further amended by striking out the second, third, fourth and fifth paragraphs and inserting in place thereof the following 4 paragraphs:-

The court shall assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of \$60 per month. The person shall pay the probation fee once each month during such time as the person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probation supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$20 per month. The person shall pay the administrative probation fee once each month during such time as the person remains on administrative supervised probation. Notwithstanding the foregoing, the fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of the fees unless it determines after a hearing and upon written finding that such payment would constitute an undue hardship on the person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of the fees would cause such undue hardship then: (1) in lieu of payment of the probation fee the court shall require the person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than 1 day per month and (2) in lieu of payment of the administrative probation fee the court shall require the person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than 4 hours per month. Such waiver shall be in effect only during the period of time that the person is unable to pay his monthly probation fee.

The court may waive payment of either or both of the fees in whole or in part if the person is assessed payment of restitution. In such cases, the fees may be waived only to the extent and during the period that restitution is paid in an amount equivalent to the fee.

The probation fee shall be collected by the several probation offices of the trial court and transmitted to the state treasurer for deposit into the General Fund. The state treasurer shall account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

#### **Authorization of Restitution Order for Civil Infractions**

SECTION 494. Section 70C of chapter 277 is hereby amended by inserting, in line 19, after the number “\$5,000.” the following sentence:- An adjudication of responsibility under this section may include an order of restitution.

#### **Prohibition of Appointment of Counsel for Civil Defendant**

SECTION 495. Section 70C of chapter 277 is hereby amended by striking out the last sentence of the first paragraph and inserting the following paragraph in place thereof:- Where the commonwealth has moved at arraignment or pretrial conference to proceed civilly and the court has allowed that motion, the court shall not appoint counsel. If counsel has already been appointed, the court shall revoke said appointment. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall not be sentenced to any term of incarceration.

#### **EOEA Reorg 187**

SECTION 496. Paragraph (f) of section 1 of chapter 465 of the Acts of 1956 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Any obligation or expense hereafter incurred at the request of the Authority by the department of public works, the department of conservation and recreation or by the highway department of the city or by any other governmental agency for engineering and legal services in connection with the construction of a project and the financing thereof shall be regarded as a part of the cost of the project and shall be assumed and paid by the Authority, or reimbursed to the commonwealth or to the city or to such agency out of the proceeds of the revenue bonds hereinafter authorized.

#### **EOEA Reorg 188**

SECTION 497. The fourth paragraph of section 4 of said chapter 465 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This section shall not apply to facilities on property of the commonwealth under the control of the department of highways or the department of conservation and recreation or installed under licenses or permits granted by said department or commission, except with its approval.

#### **EOEA Reorg 189**

SECTION 498. The second paragraph of section 23 of said chapter 465 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The Authority may call upon the department of public works, the department of conservation and recreation, the department of commerce, the department of highways, the planning board of the city, and such other state or city boards, commissions, divisions or agencies as may be deemed advisable for the purposes of assisting in making investigations, studies, surveys and estimates, and in policing the projects, and the Authority may arrange for payment for such services and expenses of said agencies in connection therewith.

#### **SSA Passenger List Confidentiality**

SECTION 499. Section 4 of chapter 701 of the acts of 1960, as most recently amended by section 6 of chapter 243 of the acts of 2002, is hereby further amended by adding the following paragraph:-

(k) To maintain the confidentiality of all information relating to specifically named customers using the authority’s reservations system including, but not limited to, passenger names, home addresses, email addresses, telephone numbers, credit and account data and the dates and times of their reservations and sailings. Such information shall not be a public record, although it may be used and disclosed by the authority as necessary in connection with the appropriate conduct of its operations and in connection with law enforcement activities. The authority shall provide to a customer requesting any such information, all information that the authority has pertaining solely to that customer. The authority shall obtain the express, written consent of a customer before releasing customer information to a third party for commercial or non-commercial purposes.

#### **Repeal of Existing Fee Structures & License Term for Property & Casualty Agent Licenses**

SECTION 500. Section 58 of chapter 153 of the acts of 1992 is hereby repealed.

#### **Bellegarde Boathouse Property**

SECTION 501. Item 7220-0960 in section 2 of chapter 267 of the acts of 1995 is hereby amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary, the trustees of the university or an officer designated by it may enter into agreements with the commissioner of conservation and recreation for repairs and improvements to, and cooperative operation and management of the Bellegarde Boathouse property in the city of Lowell, and such cooperative management and operation of the adjacent Sampas Pavilion and Regatta Field as may be agreed upon and the cost for such repairs and improvements may be paid from this item; provided further, that an agreement may also provide that revenues derived from use of the boathouse property or from use of the Sampas Pavilion and Regatta Field may be deposited in a trust fund established by the university pursuant to section 11 of chapter 75 of the General Laws and expended for the maintenance and operation of the boathouse; and provided further, that the university may expend funds from this item for necessary maintenance and operation.

## **Higher Education Performance Measurement**

SECTION 502. Chapter 43 of the acts of 1997 is hereby amended by striking out section 294 and inserting in place thereof the following section:-

Section 294. (a) In order to promote accountability for effective management and stewardship of public funds and to achieve and demonstrate measurable educational outcomes, the institutions shall certify achievement of public higher education accountability objectives through a performance measurement system. The board of higher education, in this section called the board, in consultation with the institutions, shall develop the system, including specific performance measures, with which to evaluate the institutions and with which to compare them with peer institutions with similar missions in other states. The board shall conduct not less than 3 regional public hearings on the measures proposed to be incorporated into the system.

(b) The board, in consultation with the presidents of the state and community colleges, shall identify peer institutions for the state and community colleges. The higher education accountability objectives shall include, but not be limited to, the following: (1) making public higher education more affordable; (2) improving student access and academic achievement; (3) recruiting qualified students; (4) responding to specific needs of the workplace, as defined by business and labor; (5) providing policy research addressing the needs of the commonwealth and local communities; (6) ensuring cost-effective use of resources at each institution and across all institutions, and manage campuses as efficiently as possible; (7) promoting collaboration among the campuses and with the private sector; (8) supporting kindergarten to grade 12 education programs; and (9) maximizing fundraising from private sources.

(c) In order to measure the achievements and expected outcomes of the commonwealth's system of public higher education, the board shall form, not later than September 1, 1997, separate task forces for the state and community college segments consisting of presidents or their appointees and members of boards of trustees of the institutions.

(d) For each of the accountability objectives, the board, in consultation with each task force, shall establish intelligible performance measures and identify data items that shall be obtained for each performance measure. Data shall be collected and analyzed on a campus, segmental and systemwide basis; provided, however, the board in consultation with the campuses shall establish definitions for all data items used in the performance measurement system.

(e) In order to achieve the accountability objectives of cost-effective use of resources and efficient fiscal management of the institutions, each task force shall match or improve upon standards established by National Association of College and University Business Officers. The performance measurement system shall be regularly evaluated and revised by the board in consultation with the institutions to ensure that it continues to measure the achievements and expected outcomes of the commonwealth's public higher education system. Accountability objectives, performance measures and data items shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities..

(f) The board shall use accountability objectives, performance measures and expected outcomes to conduct an annual evaluation of the performance of each institution. An institution's failure to meet a reasonable number of the accountability objectives, as determined by the performance measures, within a given year shall be deemed underperforming. If the board finds an institution to be underperforming, the institution's board of trustees shall develop and implement a performance improvement plan and timetable to be approved by the board of higher education. Each plan shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities. If the institution fails to achieve the agreed to targeted improvements and timeline, funds appropriated for the underperforming institution in the following fiscal year shall be disbursed by the board of higher education to the institution's board of trustees subject to the board's approval. The board shall not be prevented from amending the institutional allocation of an underperforming institution.

(g) Not later than January 1 of each year, the chancellor of higher education shall submit to the governor and the general court a condition of higher education report which details the condition and performance of each public higher education institution.

(h) The board shall structure its staff and financial resources to provide technical assistance to institutions to help them identify problems and assist them with formulating and implementing plans to meet the accountability measures.

(i) The board of trustees of the University of Massachusetts shall develop a performance measurement system for the university, in consultation with the board of higher education. The objectives of the performance measurement system shall be: (1) to promote student access and affordability; (2) to recruit qualified undergraduate and graduate students; (3) to promote student success; (4) to pursue theoretical and applied research, scholarship and creative activity; (5) to contribute to the economic development of the commonwealth; (6) to support kindergarten to grade 12 education programs; (7) to provide policy research addressing the needs of the commonwealth and local communities; (8) to ensure cost-effective use of resources; and (9) to maximize fundraising from private sources. The system shall include performance indicators for each of these purposes and identify data to be used in measuring performance. The board of trustees may compare institutional performance with the performance of peer institutions with similar missions as part of its evaluation process.

(j) The university shall adopt an implementation plan and timetable for meeting performance measures established by the system. The board of trustees shall report annually to the governor and the general court on the results of the performance measurement system, including recommendations for improvements to the system and for achieving improved levels of performance where necessary.

### **Convention Center Fund 1**

SECTION 503. The last sentence of the definition of "Project" in section 2 of chapter 152 of the acts of 1997 is hereby amended by inserting after the words "design works related thereto" the following words:— ; but the term shall also include the Springfield Civic Center in the city of Springfield, the Hynes Convention Center in the city of Boston, and the Boston common garage in the city of Boston.

### **Convention Center Fund 2**

SECTION 504. Paragraph (b) of section 10 of chapter 152 of the acts of 1997, as most recently amended by section 19 of chapter 68 of the acts of 1999, is hereby further amended by inserting after the words "special receipts," in line 4, the following words:— shall be received and held by the state treasurer or his designee as the trustee of the Convention Center Fund not on account of the commonwealth and.

### **Convention Center Fund 3**

SECTION 505. Paragraph (b ½) of section 10 of chapter 152 of the acts of 1997, as inserted by section 5 of chapter 45 of the acts of 2001, is hereby amended by inserting after the words “special receipt,” in the first sentence, the following words:— shall be received and held by the state treasurer or his designee as the trustee of the Convention Center Fund not on account of the commonwealth and.

#### **Convention Center Fund 4**

SECTION 506. Said section 10 of said chapter 152 is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:—

(c) In order to increase the marketability of any special obligation bonds of the commonwealth described in section 11 and any other bonds issued by the commonwealth which are payable from amounts held in the Convention Center Fund, and thereby ensure the issuance of such bonds at the lowest possible cost to the commonwealth, the special receipts deposited in the Convention Center Fund in accordance with this section are hereby impressed with a trust for the benefit of the owners from time to time of such bonds and special receipts shall be applied by the state treasurer without further appropriation to the payment of principal, including sinking fund payments and premium, if any, and interest on such bonds, to the maintenance of, or provisions for, the capital reserve fund described in section 11, to the payment of the costs of issuance of such bonds and to the payment of the cost of, and the satisfaction of the obligations of the commonwealth under, any surety bond, insurance policy or other form of credit enhancement required or provided for in any trust of security agreement or credit enhancement agreement entered into pursuant to this act to secure such bonds. The state treasurer with the concurrence of the secretary of administration and finance shall determine that sufficient amounts are or will be held in the Convention Center Fund to meet debt service payments and compliance with any applicable restrictions relating thereto, including without limitation any coverage requirements, contained in any such trust or security agreement or credit enhancement agreement. If the state treasurer and the secretary of administration and finance determine that the balance of the Convention Center Fund exceeds the amount necessary to satisfy the requirement of sufficiency, then the Authority may make expenditures from the Convention Center Fund, in an amount not to exceed such surplus, for the following purposes; (i) to pay costs, not exceeding \$50,000,000, of the heating, ventilating, and air conditioning systems for the project if the Authority deems it in the best interest of the Authority to fund such costs in whole or in part from amounts held in the Convention Center Fund rather than through a lease or lease-purchase agreement for such systems; (ii) to pay start-up costs, not exceeding \$2,000,000, of the project; (iii) to pay costs, not exceeding \$2,000,000, of a feasibility study and preliminary engineering program in accordance with section 38N of chapter 190 of the acts of 1982, as amended, for a parking garage for said project; (iv) to provide for, and maintain, any reserve for capital and current expenses of the project and other facilities of the Authority as the Authority shall deem necessary to appropriate, provided that the Authority receives written approval from the secretary of administration and finance; (v) to defray the net cost of operations, at an amount not to exceed \$12,000,000 in FY04 and that same amount in each fiscal year thereafter, of the Authority as defined in section 35 of said chapter 190 of the acts of 1982, as amended; Notwithstanding any general or special law to the contrary, the Authority and the secretary of administration and finance may also agree to deposit in the convention center fund all or any part of the revenues of the Boston common parking garage in excess of the costs of maintenance, repair and operation thereof, reasonable reserves for such purposes and cost of debt service on bonds issued to finance the restoration of the Boston common parking garage.

#### **Convention Center Fund 5**

SECTION 507. Said section 10 of said chapter 152 is hereby further amended by striking out paragraph (e).

#### **Convention Center Fund 6**

SECTION 508. Paragraph (a) of section 11 of said chapter 152 is hereby amended by adding the following sentence:— Such bonds shall be issued for such maximum term of year, not exceeding 30 years, as the governor may recommend to the general court in accordance with section 3 of Article LXII of the Amendments to the Constitution, but all such bonds shall be payable not later than June 30, 2038.

#### **Convention Center Fund 7**

SECTION 509. Paragraph (c) of said section 11 of said chapter 152 is hereby amended by adding the following two sentences:—  
Notwithstanding the foregoing, the state treasurer, with the concurrence of the secretary of administration and finance, may fund the Capital Reserve Fund in whole or in part with a surety bond, insurance policy or other form of credit enhancement and the balance on deposit from time to time in the Capital Reserve Fund for all purposes in this section shall be deemed to include an amount equal to the unpaid stated amount of such surety bond, insurance policy or other form of credit enhancement. All amounts drawn on or otherwise received from such surety bond, insurance policy or other form of credit enhancement shall be deposited by the state treasurer in the Capital Reserve Fund except to the extent otherwise provided in the trust or security agreement securing such bonds.

#### **Convention Center Fund 8**

SECTION 510. Paragraph (g) of said section 11 of said chapter 152 is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:—

(iii) in any fiscal year of the commonwealth, unless and until the treasurer, with the concurrence of the secretary of administration and finance, has determined that special receipts or other pledged funds have been or will be deposited in the Convention Center Fund in an amount sufficient to pay when due the principal, including sinking fund payments, of and interest on all such bonds payable in such fiscal year, and to maintain the capital reserve fund described in paragraph (c), no such special receipts or other pledged funds shall be applied to any other use.

#### **Tax Exemption Escrow Trust Fund Repeal**

SECTION 511. Section 316 of chapter 194 of the acts of 1998 is hereby repealed.

#### **Quincy Hospital Loan Repayment**



SECTION 512. Section 2A of chapter 101 of the acts of 1999 is hereby amended by striking out item 1599-1499 and inserting in place thereof the following item:-

1599-1499 For a one-time loan to the city of Quincy for the purpose of facilitating the conversion of Quincy Hospital from ownership by the city of Quincy to ownership by a private nonprofit corporation; provided, that such loan shall be repaid by the city in 4 equal annual installments, without interest, commencing in fiscal year 2007 and ending in fiscal year 2010; provided further, that the terms of the loan shall be established by and subject to the terms of an agreement to be negotiated between the city, represented by the mayor, and the secretary of administration and finance; provided further, that the state comptroller shall intercept cherry sheet payments due the city from the commonwealth upon certification by the secretary that the city is in default on the loan or any other terms of the agreement; provided further, that the proceeds of the loan shall be used by the city for the costs associated with the conversion, including, but not limited to, obligations of the hospital to the city for employee benefits and for any indebtedness incurred by the city on behalf of the hospital; provided further, that in the event that the financial commitments of the city to the hospital in fiscal years 2000 to 2006, inclusive, terminate for any reason prior to fiscal year 2007, the annual installment payments of the loan shall become due in the fiscal year following the fiscal year in which the financial commitments terminate; provided further, that the city, in collaboration with the corporation, shall file annually with the secretary and with the secretary of health and human services, the house and senate committees on ways and means and the joint committee on health care a report delineating the benchmarks and milestones established by the corporation to achieve financial viability and the status of the corporation in achieving the benchmarks and milestones, including changes in patient volume and payer mix, the establishment and maintenance of community benefits by the corporation and the results of affiliations with other health care providers and health care entities; and provided further, that the report shall be filed not later than the January 1 following the end of each hospital fiscal year 2000 to 2006, inclusive.....\$12,100,000

#### **Capital Needs Investment Trust Repeal**

SECTION 513. Section 357 of chapter 159 of the Acts of 2000 is hereby repealed.

#### **Establishing an End of Life Care Trust Fund**

SECTION 514. Section 480 of said chapter 159 is hereby amended by adding the following paragraph:-

The commission to study the provision of end of life care services shall have a trust fund account established upon the books of the commonwealth within the Massachusetts Management Accounting and Reporting System, whereupon all receipts, fees and revenues as collected by the commission during the delivery of its services shall be deposited within the account and shall be retained and expended to meet the operational costs associated with the commission. All expenses associated with the operation of the commission shall be paid from the trust fund account and shall be in conformance with existing expenditure classification regulations. The account shall be managed in accordance with generally accepted accounting principles and shall comply with chapter 29 of the General Laws.

#### **Transitional Escrow Fund Repeal**

SECTION 515. Section 36 of chapter 88 of the acts of 2001 is hereby repealed.

#### **Department of Professional Licensure 50/50 Trust Sunset**

SECTION 516. Section 7A of chapter 177 of the acts of 2001 is hereby repealed.

#### **Restoration of Section 11 of Chapter 161B**

SECTION 517. Sections 107 and 245 of Chapter 184 of the acts of 2002 are hereby repealed.

#### **Asbestos Cost Recovery Repeal**

SECTION 518. Section 194 of chapter 184 of the acts of 2002 is hereby repealed.

#### **Cable Commission Reporting Date Change**

SECTION 519. The last sentence of section 238 of chapter 184 of the acts of 2002 is hereby amended by striking out the words "December 30, 2002" and inserting in place thereof the following words:- September 30, 2003.

#### **Funding for Various Construction Projects in the Commonwealth**

SECTION 520. Item 6033-9917 of section 23 of chapter 235 of the acts of 2000, as amended by section 19 of chapter 246 of the acts of 2002, is hereby further amended by adding the following words:- provided further, that \$1,900,000 shall be expended for the construction of a sound barrier along Interstate 93, from Brookside Parkway to Newport Avenue, in the city of Medford; provided further, that \$450,000 shall be expended for the design, study and completion of Phase Two of the Mystic Valley Parkway Rehabilitation project, so-called, encompassing the areas of Roosevelt Circle and South Border Road, located in the town of Winchester and the city of Medford; provided further, that \$1,000,000 shall be expended for the construction of a sound barrier along interstate highway route 93 adjacent to Rhode Island Avenue and Vermont Avenue in the city of Somerville; provided further, that not less than \$500,000 shall be expended on the design and construction of a pedestrian underpass under the Mystic Wellington bridge on state highway route 28 in the city of Somerville; provided further, that \$2,000,000 shall be expended for the construction of a sound barrier along the westbound portion of route 1, extending from Jefferson Drive to Cushing Street in the city of Revere; provided further, that not less than \$125,000 shall be expended on the repair of the Heywood Street Culvert, spanning Mill Brook, connecting Walden Street with Lexington Road in the town of Concord; provided further, that not less than \$100,000 shall be expended on the repair of the Westford Road Culvert, spanning the Spenser Brook, connecting West Street and route 225 in Carlisle with Westford Road and Lowell Road in the town of Concord; provided further, that not less than \$400,000 be expended for the construction of the Pine Street Bridge, spanning the Assabet River in the town of Concord; provided further, that not less than \$750,000 be expended for the repair of Heath's Bridge,

spanning the Sudbury River on Sudbury Road in the town of Concord; provided further, that not less than \$1,500,000 be expended for the repair of South Bridge, spanning the Sudbury River on route 62 in the town of Concord; provided further, that not less than \$502,000 be expended on repair of Flint's Bridge, spanning the Concord River on Monument Street in the town of Concord; and provided further, that not less than \$300,000 be expended for the repair of Nashawtuc Road Bridge, spanning the Sudbury River at Nashawtuc Road in the town of Concord.

#### **Directing Federal Funds for Iodine Tablets to a Federal Trust**

SECTION 521. The last sentence of subsection (F) of section 1 of chapter 425 of the acts of 2002 is hereby amended by striking out the words "retained revenue account established by the department and used for nuclear power plant environmental monitoring activities" and inserting in place thereof the following "the Radiation Control Trust account".

#### **Tourism Fund Formula**

SECTION 522. Notwithstanding any general or special law to the contrary, the formula provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2004.

#### **Tobacco Settlement Fund Transfer**

SECTION 523. Notwithstanding any general or special law to the contrary, during fiscal year 2004, the comptroller shall transfer from the Health Care Security Trust, established under chapter 29D of the General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments received by the commonwealth in fiscal year 2004 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378 and 50 per cent of the earnings generated in fiscal year 2004 from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General Laws for certain health care expenditures appropriated in section 2 of this act.

#### **Tobacco Spending Percentage**

SECTION 524. Notwithstanding any general or special law to the contrary, the provisions of subsection (b) of section 3 of chapter 29D of the General Laws shall not apply in fiscal years 2004 and 2005.

#### **Alcohol and Substance Abuse Coordination**

SECTION 525. Notwithstanding any general or special law to the contrary, the secretary of health and human services shall coordinate with the commissioners of public health, correction, probation and education, the registrar of motor vehicles and the chairman of the alcoholic beverages control commission to develop a comprehensive plan on alcohol and substance abuse treatment and prevention for adults, young adults and juveniles in the commonwealth. The plan shall include, but not be limited to, ways to: a) develop a state-wide, regional and local plans and programs for the prevention and treatment; b) coordinate the efforts of all public agencies and private organizations interested in the prevention and treatment of alcohol and drug dependency; and c) develop appropriate educational and training programs. The secretary of health and human services shall report annually on February 1 to the house and senate committees on ways and means, the legislature's joint committee on human services and elderly affairs and the joint committee on public safety on the plan, together with recommendations for legislative action for implementing the plan.

#### **Elimination of Duplicate Attorneys for Parties in Child Welfare Cases at the Trial Level**

SECTION 526. Notwithstanding any provision of this act or any general or special law to the contrary, not more than one counsel shall be paid from the amounts appropriated in items 0321-1500 and 0321-1510 of section two of this act for representation of a party in civil proceedings pending in a trial court or courts pursuant to sections 23(C), 24, 26, 39E through 39J, inclusive, of chapter 119 of the General Laws or section 3 of chapter 210 of the General Laws.

#### **Transportation of Non-Public School Students**

SECTION 527. Notwithstanding any general or special law, rule or regulation to the contrary, a school district that transports or pays for the transportation of public school children in grades 7 to 12, inclusive, shall also provide transportation or payment for non-public school children in the same grades.

#### **Division of Occupational Safety Fees**

SECTION 528. Notwithstanding any general or special law to the contrary, and with the exception of fees charged for the testing of blood lead levels, fees charged by the division of occupational safety authorized in subsection (e) of section 197B of chapter 111 of the General Laws, section 46F of chapter 140 of the General Laws, section 6B of chapter 149 of the General Laws, or fees charged under the minimum wage program under 801 CMR 4.02, shall be set at a rate not less than twice the rate charged on July 1, 2002.

#### **Colonial Theatre/St. Stephan's Church Funding Extended**

SECTION 529. Notwithstanding the provisions of any general or special law to the contrary, funds appropriated in item 0526-0101 and 0526-0111 in section 2A of chapter 55 of the Acts of 1999 shall be available for expenditure until June 30, 2005.

#### **EOEA Reorg 190**

SECTION 530. Notwithstanding the provisions of any general or special law to the contrary, or any legal memoranda or other type of agreement entered into by and among any state or public agencies, authorities or bodies corporate and politic prior to the effective date of this act, the department of conservation and recreation shall assume the sole responsibility for the delivery and the performance of services for all maintenance and repair work, including snow and ice control, for the boulevards, parkways, roads, ways, and bridges, including drawbridges, previously under the care, custody and control of the metropolitan district commission. No lands, facilities, boulevards, parkways, roads, ways, bridges, personnel, equipment or material under the care, custody and control of the department within the metropolitan parks district, and no duties mandated by statute to be undertaken and performed by the department within the metropolitan parks district, may be transferred either in whole or in part to any other state or public agency or to any other entity, without the express prior approval of the general court. Nothing within this section shall be construed to prohibit the department from entering into cooperative agreements with municipalities to share joint management and maintenance responsibilities for areas situated within the metropolitan parks district, provided that such agreements shall not pledge or commingle funds or funding sources, but shall instead designate specific services to be provided by each entity within the limits of its authority. Nothing within this section shall be construed to prohibit the department from entering into agreements with individual corporate or other partners from within the private sector, to promote the donation of services or funds or other such assistance to the department, provided that the department shall at all times exercise its statutory duties in managing and supervising the delivery of such services, funds or assistance.

#### **EOEA Reorg 191**

SECTION 531. Wherever the name of any transferor agency as defined in section 532 appears in any general or special law or in any order, rule or regulation or other such document related to the exercise of such powers, or the performance of such duties, or to such custody and control as are vested in those departments, such name shall mean and shall be construed as referring to each respective transferee agency identified in section 532.

#### **Transitions Due to Reorganizations**

SECTION 532. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) The functions of the department of food and agriculture, as the transferor agency, except those functions referenced in clause (6), to the department of agricultural resources, as the transferee agency.

(2) The functions of the metropolitan district commission, as the transferor agency, to the department of conservation and recreation, as the transferee agency.

(3) The functions of the department of environmental management, as the transferor agency, to the department of conservation and recreation, as the transferee agency.

(4) The functions of the division of fisheries and wildlife in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the division of fisheries and wildlife in the department of conservation and recreation, as the transferee agency, to the extent set forth in section 8 of chapter 21A of the General Laws.

(5) The functions of the division of environmental law enforcement in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the office of environmental law enforcement in the executive office of environmental affairs, as the transferee agency, to the extent set forth in section 8 of chapter 21A of the General Laws.

(6) The functions of the pesticide board in the department of food and agriculture, as the transferor agency, to the pesticide board in the department of environmental protection, as the transferee agency.

(7) The functions of the division of marine fisheries in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the division of marine fisheries in the department of conservation and recreation, as the transferee agency.

(8) The functions of the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the department of conservation and recreation, as the transferee agency.

(9) The functions of the division of watershed management in the metropolitan district commission, as the transferor agency, to the division of water supply protection, as the transferee agency.

(10) The functions of the division of water resources in the department of environmental management, as the transferor agency, to the division of water supply protection, as the transferee agency.

(11) The functions of the office of administrative appeals in the department of environmental protection, as the transferor agency, to the office of administrative appeals in the executive office of environmental affairs, as the transferee agency.

(12) The functions of office of the chief medical examiner, as the transferor agency, to the department of forensic sciences, as the transferee agency.

(13) The functions of the state police lab, as the transferor agency, to the department of forensic sciences, as the transferee agency.

(14) The functions of the division of employment and training, as transferor agency, to the division of workforce training, excluding the oversight of the unemployment insurance fund, the medical security trust fund and the workforce training fund.

(15) The functions of the division of medical assistance pursuant to section 352, as the transferor agency, to the office of elder services, as the transferee agency.

(16) The functions of the division of health care finance and policy pursuant to section 348, as the transferor agency, to the executive office of health and human services.

(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the respective transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the respective transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

#### **Asset Transfer to Pension Reserves Investment Trust Fund**

SECTION 533. (1) Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Convention Center Authority shall transfer ownership of the John B. Hynes Veterans Memorial Auditorium (hereinafter "Hynes Auditorium") and the Boston Common Parking Garage (hereinafter "parking garage")(collectively "properties"), to the Pension Reserves Investment Management (PRIM) board for deposit into the Pension Reserves Investment Trust (PRIT) Fund in satisfaction of up to \$145 million of the appropriation required by section 22C of chapter 32 of the General Laws. The remaining value of the properties in excess of that amount shall be used to decrease unfunded pension liability of the PRIT fund.

(2) The parking garage shall be transferred subject to any existing easements acquired pursuant to chapter 606 of the Acts of 1958.

(3) The properties shall be available for retention or disposition pursuant to the relevant laws and regulations applicable to the ownership of real estate by the PRIT fund, subject to the following restrictions: (a) the PRIM board shall maintain, at least until December 31, 2006, the Hynes Auditorium as a convention center under the administration and management of the Massachusetts Convention Center Authority; (b) prior to any disposition of the Hynes Auditorium, the PRIM board shall first solicit proposals from prospective buyers or lessors who shall continue to operate the Hynes Auditorium as a convention center, including proposals that seek to develop secondarily the property, including but not limited to subdivision of the existing facility for commercial use and development of space atop the existing facility, subject to applicable state and local laws; (c) the PRIM board shall not dispose of the Hynes Auditorium for a use other than as a convention center until the board has submitted a report detailing its efforts to solicit proposals set forth in (b) to the secretary of administration and finance and the clerks of the house and senate; and (d) the PRIM board shall ensure that the parking garage shall continue to operate as a parking garage whether retained, leased or otherwise disposed of by the board.

(4) The treasurer shall take appropriate steps to ensure that any transfer of the properties by the PRIM board is subject to any existing bond obligations of the Authority or the Commonwealth and a portion of the proceeds of any such transfer shall be set aside to satisfy the payment of any outstanding debt obligations on the properties.

(5) The value to be credited for the properties so transferred to the PRIT fund shall be its fair market value as determined by the PRIM board based on an independent appraisal and in accordance with applicable laws.

#### **Streamlining Health Care Provider Credentialing Process**

SECTION 534. By October 1, 2003, the division of insurance shall promulgate regulations requiring carriers subject to chapter 141 of the Acts of 2000 to utilize a standard application for licensed health care providers for the purposes of credentialing and recredentialing such providers. The regulations shall require that the carriers complete the provider credentials verification and enrollment process within 30 days of receiving the application.

#### **MassHealth Enrollment Cap**

SECTION 535. Notwithstanding any general or special law to the contrary, the division of medical assistance shall, subject to approval or modification by the secretary in programs where federal funding is available, set limits on the number of adults who can receive benefits under any one or more of the following provisions: clauses (d), (e), (h) or (i) of subsection (2) of section 9A of chapter 118E of the General Laws, or sections 9C, 16 or 16D of said chapter. When an eligibility limit has been reached or exceeded, whether or not limited to higher income levels, the division may close enrollment but must provide written notification to the house and senate committees on ways and means and the joint committee on health care at least 30 days in advance of taking such action, until such time or under such circumstances as the division shall determine. If the division closes enrollment it shall also report to the committees the number of eligible individuals who have applied and been denied coverage due to the enrollment cap. This provision shall be effective for applications submitted after the effective date of this act or after such later date as approved by the secretary.

#### **FY04 Nursing Home User Fee Spending**

SECTION 536. (a) Notwithstanding any general or special law to the contrary, in fiscal year 2004, the division of health care finance and policy shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2003 through June 30, 2004 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002. The division shall adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2004:

(1) effective July 1, 2003, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes;

(2) effective July 1, 2003, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2003, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing

staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the division of medical assistance. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2003, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the division of medical assistance in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the division of medical assistance in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings;

(5) \$300,000 for the purposes of an audit of funds distributed pursuant to clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the division of medical assistance, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2004 a preliminary analysis of funds expended pursuant to said subsection in fiscal year 2004 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related to the implementation and administration of sections 25 and 26 of chapter 118G of the General Laws;

(7) payment for services provided to MassHealth members by pharmacies participating in MassHealth.

(b) The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the divisions of health care finance and policy and medical assistance to provide the appropriate rate increases to nursing homes and payment of dispensing fees to pharmacies.

#### **FY04 Nursing Home User Fee One-Time Spending**

SECTION 537. Notwithstanding the provisions of any general or special law to the contrary, the following payments shall be made from the Health Care Quality Improvement Trust Fund in fiscal year 2004 and fiscal year 2005 utilizing monies accumulated in the fund during fiscal year 2003 as a result of the prohibition of retroactive application of rate increases to nursing homes approved by section 180 of chapter 184 of the acts of 2002:

(1) \$6,500,000 for grants to community health centers for one-time grants for costs incurred by the development of the staff and infrastructure necessary to accommodate the MassHealth disabled population pilot project as mandated by this act and to mitigate the effect of changes made to paragraph (g) subsection (2) of section 9A of chapter 118E of the General Laws by chapter 184 of the acts of 2002;

(2) \$4,100,000 for the career ladder grant program in long-term care established pursuant to section 410 of chapter 159 of the acts of 2000, provided that grants shall be available for certified nurses' aides, home health aides, homemakers and other entry-level workers in long term care; provided further, that the length of such grants shall not exceed a period of 3 years; provided further, that the Commonwealth Corporation shall submit quarterly reports to the house and senate committee on ways and means on the grant program including, but not limited to, the number of grants awarded, the amount of each grant, a description of the career ladder programs, changes in care giving and workplace practices that have occurred and their impact on quality of care and worker retention and the certificates, degrees or professional status attained by each participating employee; provided further, that the administrative and program management costs for the implementation of the grant program shall not exceed 4 per cent of the amount provided for in this section; and provided further, that grants may also include funding for technical assistance and evaluation

(3) \$3,000,000 to fund expenses at the division of health care quality within the department of public health to enforce and improve nursing home quality standards partially funded in item 4510-0710; provided, that \$1,000,000 shall be expended to support boards of registration being transferred to or serving in the department of public health;

(4) \$2,000,000 for administrative expenditures at the division of medical assistance, partially funded in item 4000-0300, related to the establishment of a program of care management for Medicaid recipients with high-utilization of medical services; provided, that the division shall use the funds to identify health care costs and pricing patterns in the Medicaid program that are not cost effective or medically appropriate using best practices and identify alternatives which provide for an integrated approach to managing health care needs of recipients at risk of or diagnosed with specific ailments, including, but not limited to, asthma, congestive heart failure, diabetes, heart disease and stroke; provided further, that the program shall be designed to improve health care and health outcomes, reduce unnecessary or avoidable inpatient hospitalization, and reduce the number of emergency room visits by such recipients; provided further, that the program shall require the provision of clinically appropriate care management based on best practices, clinical studies and health outcome research; provided further, that the division shall report to the house and senate committees on ways and means by March 1, 2004, the number of individuals participating in the program and any reduction in utilization or spending resulting from the program; provided further, that administrative expenditures may include contracts with disease management organizations.

#### **Nursing Home User Fee Assessment Revenue**

SECTION 538. Pursuant to sections 25 and 26 of chapter 118G of the General Laws, the amount of the fiscal year 2004 assessment imposed by those sections shall be sufficient in the aggregate to fund the fiscal year 2004 expenditures detailed in section 450, taking into account federal financial participation made available by such expenditures. The division of health care finance and policy may adjust the assessment by no more than 3 percent of the total amount specified in statute in order to comply with state and federal law. The division may also specify by

regulation appropriate policies and procedures to provide for the determination and periodic re-determination of assessment rates, including any requirements for data reporting that the division determines necessary to monitor revenues and compliance.

#### **Managed Care Organizations - Community Provider Network**

SECTION 539. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any necessary federal waivers or regulation changes and include in its managed care organization (MCO) procurement, with a contract effective date of July 1, 2004, preference for MCOs that develop an essential community provider network to more cost-effectively serve certain adult MassHealth members enrolled in the MCO program. This shall include, but not be limited to, preference for MCOs that emphasize the use of appropriate sites of care, such as community health centers, hospital-licensed health centers, and, where necessary to ensure access, other large primary care group practice settings. The division shall include a comprehensive program of care management in its MCO procurement, specifically targeted to high cost populations. The division shall also include in its MCO procurement, preference for MCOs that are able to leverage federal 340B pharmacy discounts or other cost-effective pharmacy purchasing strategies. The division shall report to the house and senate committees on ways and means, no later than April 1, 2004, any expected reduction in spending resulting from the provisions of this section, and the effect on the level of services available to participating members.

#### **MassHealth Behavioral Health Partnership Pilot Program**

SECTION 540. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall pursue savings and efficiencies in the behavioral health program of the division of medical assistance. The division's behavioral health program shall study the feasibility of streamlining the approval process for admission for psychiatric hospitalization through a pilot project conducted by the division's behavioral health contractor for the primary care clinician plan. Evaluation of the pilot project shall examine the cost/benefit of allowing streamlined admissions in terms of increased admissions and longer lengths of psychiatric stays. The behavioral health program shall support the behavioral health contractor's hospital outlier management program and report to the house and senate committees on ways and means no later than January 1, 2004, the results of the pilot project and the service spending savings achieved through this so called hospital outlier management program.

#### **Pilot Program for Community Provider Based Care**

SECTION 541. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any necessary federal waivers or regulation changes and develop a pilot program within its primary care clinician plan (PCC Plan) for certain managed-care eligible, federally optional, MassHealth members, aged 19 to 65. Such pilot shall include the provision of primary care through community health centers, hospital-licensed community health centers and, where necessary to ensure access, other large primary group practice settings. Such pilot shall also include a comprehensive program of care management for certain managed-care eligible, federally optional, MassHealth members, aged 19 to 65, enrolled in the PCC Plan and the purchase of such program shall be pursued through its contract for the PCC Plan's behavioral health program. No later than 60 days prior to the implementation of the pilot, the division shall notify the house and senate committees on ways and means and the secretary of administration and finance, the number of projected participants, the planned date of implementation, any expected reduction in spending resulting from the program, and the effect on the level of services available to participating members.

#### **Fiscal Year 2004 Uncompensated Care Pool**

SECTION 542. Notwithstanding any general or special law to the contrary, in fiscal year 2004, the division of health care finance and policy is authorized to administer, as provided in this section, the Uncompensated Care Trust Fund established by section 18 of chapter 118G of the General Laws, to collect assessments as specified in section 1 of said chapter 118G for deposit to the fund, and make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of services provided to uninsured residents. The division may promulgate regulations to implement any of the provisions in this section.

The division, in consultation with the division of medical assistance and the executive office of health and human services, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a manner that would secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI or any successor federal statute.

In hospital fiscal year 2004, the total liability of all acute care hospitals to the fund shall be \$157,500,000 and the division shall calculate an assessment percentage rate by dividing \$157,500,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's liability to the fund shall be equal to the product of the percentage rate and its "private sector charges".

In fiscal year 2004, the total surcharge liability of surcharge payers to the uncompensated care trust fund shall be \$157,500,000. The surcharge amount for each surcharge payer shall be equal to the product of (a) the surcharge percentage and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division shall calculate the surcharge percentage by dividing \$157,500,000 by the projected annual aggregate "payments subject to surcharge", as that phrase is defined in section 1 of chapter 118G of the General Laws.

All title XIX federal financial participation revenue generated by hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the division of medical assistance, shall be credited to the General Fund; provided however, that for fiscal year 2004, the comptroller shall transfer to the Uncompensated Care Trust Fund \$150,000,000 of the federal financial participation credited to the General Fund. In addition to the revenues deposited to the Uncompensated Care Trust Fund pursuant to this section, the division may expend up to \$28,000,000 from any unexpended balance in the trust fund at the close of fiscal year 2003 for purposes specified in this section.

The division shall calculate an annual payment liability from the uncompensated care pool to each acute hospital for fiscal year 2004. In determining the liability amount, the division shall (a) take into account such factors as each hospital's prior year payments from the pool, available funding in the pool, the financial burden of hospitals that provide proportionately the largest volume of free care, the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and (b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for fiscal year 2004, as determined by the division using prior year data and considering the total funds available for the purpose; provided that the fixed percentage shall not be less than 85 per cent of free care costs for the 5 acute hospitals with the highest relative volume of free care costs, and shall be as high as is possible taking into account the total funds available. The fiscal year 2004 annual liability amount to each hospital shall be funded by the trust fund; provided, that the liability may be satisfied through either a disproportionate share payment or adjustment to Title XIX service rate adjustment payment, or combination thereof, in accordance with the terms provided for in an agreement entered into by any acute hospital and the division of medical assistance.

The division shall maximize the use of other federally permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$50,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The division of medical assistance shall make payments from the uncompensated care pool for services provided by community health centers to uninsured residents in accordance with the relevant provisions of chapter 118G, and regulations promulgated under chapter 118G, in effect at the end of fiscal year 2003.

In fiscal year 2004, \$380,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for herein and \$28,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section. The comptroller shall transfer, without further appropriation, \$180,000,000 from the trust fund to the division of medical assistance for the purposes of meeting payment obligations for services provided pursuant to section 542 of this act.

#### **FFP for the Uncompensated Care Trust Fund**

SECTION 543. Notwithstanding any general or special law to the contrary, the division of medical assistance, in this section called the division, and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental services agreement between the division and the division of health care finance and policy, which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established by section 18 of said chapter 118G, or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G or funds otherwise made available to the trust fund by the general court, to the division for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of Title XIX. The division may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division of health care finance and policy under such interdepartmental services agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the Uncompensated Care Trust Fund as determined by the division of health care finance and policy pursuant to said section 18 of said chapter 118G. Any federal funds obtained as a result of said actions shall be deposited in the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection and expenditure of funds pursuant to this section.

#### **Transfer to Uncompensated Care Trust Fund**

SECTION 544. Notwithstanding any general or special law to the contrary, on October 1, 2003, the comptroller shall transfer \$100,000,000 from the Health Care Security Trust, established by section 2EEE of chapter 29 of the General Laws, to the Uncompensated Care Trust Fund, established by section 18 of said chapter 118G for the purposes of making payments to acute care hospitals.

#### **Initial Payments to Qualifying Acute Care Hospitals**

SECTION 545. Notwithstanding any general or special law to the contrary, the comptroller shall transfer on or before June 30, 2004, without further appropriation, \$30,000,000 from the General Fund to the Uncompensated Care Trust Fund, established pursuant to section 18 of chapter 118G of the General Laws, for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2003. The payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to said fund. The comptroller shall transfer from the fund to the General Fund not later than June 30, 2004, the amount of the transfer authorized in this section and any allocation thereof as certified by the commissioner of the division of health care finance and policy.

#### **Disproportionate Share Hospitals FFP for DMH/DPH Facilities**

SECTION 546. Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share payment adjustments to such qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the centers for Medicare and Medicaid services. The division of medical assistance, the department of public health and the department of mental health may expend amounts transferred to them from such separate accounts within the Uncompensated Care Trust Fund

without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds under this section.

#### **Intergovernmental Transfer to University of Massachusetts-Affiliated Hospitals**

SECTION 547. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$125,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to the University of Massachusetts Memorial Hospital. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the Commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless University of Massachusetts Memorial Hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and University of Massachusetts Medical School makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of paragraph (o) of section 18 of chapter 118G of the General Laws. Not later than 60 days after such expenditure, the University of Massachusetts Medical School shall submit to the secretary of administration and finance and the house and senate committees on ways and means a report detailing the programs funded from revenue associated with this section.

#### **Intergovernmental Transfer for MassHealth Managed Care Contracts**

SECTION 548. Notwithstanding any general or special law to the contrary, during fiscal year 2004 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed \$590,000,000 for a program of MassHealth supplemental payments to certain publicly operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law, and the Medicaid state plan. The funds may be expended only for payment obligations arising during fiscal year 2004. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts so authorized for said expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other non-federal public funds. The Boston public health commission and the Cambridge public health commission shall transfer to said medical assistance intergovernmental transfer account not less than 50 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with the commissions.

#### **Intergovernmental Transfer to Disproportional Share Hospitals**

SECTION 549. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$32,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain acute care hospitals. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the acute care hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of paragraph (o) of section 18 of chapter 118G of the General Laws. An accounting of such payments shall be reported quarterly to the house and senate committees on ways and means.

#### **Municipal Nursing Home IGT**

SECTION 550. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly owned or publicly operated providers. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the Commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of paragraph (o) of section 18 of chapter 118G of the General Laws.

### **Uncompensated Care Pool Plan**

SECTION 551. Notwithstanding the provisions of any general or special law to the contrary, the Secretary of the Executive Office of Health and Human Services shall develop a new program for the provision of medically necessary health care services for low income uninsured and underinsured residents of the commonwealth. Said program shall replace the purpose and services available through the uncompensated care trust fund, established pursuant to section 18 of chapter 118G of the General Laws.



In developing said program, the Secretary shall consult with representatives from hospitals, community health centers, health maintenance organizations, consumer and patient advocates, employer organizations, and relevant policy experts.

The Secretary shall devise a program which:

- (a) reforms the provision & financing of medically necessary care through the uncompensated care trust;
- (b) preserves access to medically necessary health care services for low income uninsured and underinsured residents of the Commonwealth;
- (c) establishes a fair and equitable program to fund uncompensated care;
- (d) maximizes the amount of federal financial participation or other federal revenue to which the commonwealth may be entitled;
- (e) allocates the burden of funding uncompensated care among affected participants such that no single participant or group of participants bears a disproportionate burden for the cost of providing such care;
- (f) protects the unique mission of those organizations who disproportionately provide and deliver medically necessary health care services to a disproportionate number of low income uninsured and underinsured residents of the commonwealth;
- (g) encourages coordination with and the utilization of public and private insurance programs, including programs operated by the division of medical assistance;
- (h) adopts specific measures and procedures to achieve efficiency, accountability, effective management and the administration of the uncompensated care pool, so-called;
- (i) includes a reimbursement system that is efficient and operable on a statewide basis;
- (j) delineates the resources necessary to track and analyze uncompensated care pool utilization;
- (k) promotes the delivery of patient care in the most appropriate, cost-effective manner and location available, while protecting patient access to medically necessary care;
- (l) includes effective forms of care management for uncompensated care pool utilizers;
- (m) streamlines administrative operations & functions for health care providers who are subject to the uncompensated care pool, so-called, to the extent possible and practicable;
- (n) maximizes the use of federal financial participation;
- (o) includes any and all legislation necessary to implement said program.

The Secretary shall file any and all recommendations, including any proposed legislation, with the clerks of the senate and the house of representatives and the house and senate committees on ways and means on or before October 1, 2003.

#### **Limited Medical Assistance Program**

SECTION 552. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any federal waivers and make any regulatory changes necessary to establish a program of preventive and primary care for persons who are not receiving unemployment insurance benefits and who are not eligible for medical assistance but who are determined by the division to be long-term unemployed, provided that such persons meet the eligibility requirements established under the MassHealth program established in section 9A of chapter 118E, provided that such persons' financial eligibility shall not exceed 100 per cent of the federal poverty level. Such eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis. The provision of care to such persons under this program may, taking into account capacity, continuity of care and geographic considerations, be restricted to certain providers including community health centers, hospital-licensed health centers, mental health providers, and, where necessary to ensure access, larger primary group practice settings. Funding for the program may not exceed \$180,000,000 in fiscal year 2004. The division shall implement the program on or before October 1, 2003, provided, however, that implementation of the program shall be contingent upon any required federal approval.

#### **Health Related Services Rev Max**

SECTION 553. (a) Notwithstanding any general or special law to the contrary, state agencies and direct and subcontracted providers of health-related services, including purchase-of-service providers, financed from appropriation items for any state agency, shall maximize Title XIX and all other federal, state and private health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall collect information from clients, or from the parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be eligible for medical assistance benefits under chapter 118E of the General Laws or are beneficiaries of any health insurance policy. The agency or provider shall forward client information collected under this section to the division of medical assistance and such data shall only be used to match against available databases for the purpose of identifying all sources of potential payment for health services or health insurance coverage. The division shall return the results of any such data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. Such actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources.

(b) The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause.

(c) The executive office of health and human services and the operational services division within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

#### **Participation in the Intercept Program**

SECTION 554. Notwithstanding any general or special law to the contrary, the department of public health and all public institutions of higher education receiving funding from the commonwealth shall take all steps necessary to begin participation in the state comptroller's Intercept Program for overdue receivables.

Each agency and institution of higher education shall designate 1 officer responsible for coordinating the necessary steps with the office of the state comptroller. The responsible officer shall submit timely and sufficient information to the office of the state comptroller so that the comptroller may examine accounts and demands against the commonwealth as provided in section 3 of chapter 7A of the General Laws.

The state comptroller shall, not later than December 15, 2003, certify to the house and senate committees on ways and means the level of cooperation being extended by the specified state agency and public institutions of higher education to the state comptroller in pursuit of the goals of this section. Any agency or public institution of higher learning that is not certified as being in full cooperation with the state comptroller shall have the appropriation level of its designated line item reduced according to the following schedule:

- A) Department of Public Health: Reduction of \$840,000 from line item 4510-0100
- B) Roxbury Community College: Reduction of \$360 from line item 7515-0100
- C) Fitchburg State College: Reduction of \$340 from line item 7110-0100
- D) Worcester State College: Reduction of \$300 from line item 7116-0100
- E) University of Massachusetts at Dartmouth: Reduction of \$33,000 from line item 7100-0200
- F) University of Massachusetts at Amherst: Reduction of \$265,000 from line item 7100-0200
- G) University of Massachusetts at Boston: Reduction of \$90,000 from line item 7100-0200
- H) University of Massachusetts at Lowell: Reduction of \$40,000 from line item 7100-0200
- I) University of Massachusetts Medical School: Reduction of \$970 from line item 7100-0200

The state comptroller shall, not later than March 15, 2004, report to the house and senate committees on ways and means on the implementation of Intercept Program participation for the agencies and public institutions of higher education identified in this section. The report shall also include an estimate of the amount of overdue receivables that is expected to be collected on behalf of the specified agencies and public institutions of higher education as a result of participation in the Intercept Program in fiscal year 2004.

#### **Membership of Restructured Board of Higher Education**

SECTION 555. Notwithstanding any general or special law to the contrary, the terms of all appointed members of the board of higher education shall expire on August 30, 2003. Commencing on September 1, 2003, and continuing for the terms hereinafter stated and until their successors are appointed, the board of higher education shall include among its appointed members not fewer than 2 persons appointed by the governor from among the members of the board of higher education serving as of June 30, 2003. Of the 5 appointed members of said board, the student member shall be appointed for a term to expire May 30, 2004. Of the remaining appointed members, 1 shall be appointed for a 2-year term, 1 shall be appointed for a 3-year term, 1 shall be appointed for a 4-year term, and 1 shall be appointed for a 5-year term. With the exception of the appointed members from among the members of the board of higher education serving as of June 30, 2003, and the student representative, all appointed members of the council shall be appointed according to the provisions of section 18B of chapter 6. The term of the chairperson of the board of higher education shall continue under the provisions which existed prior to the enactment of this act.

#### **Massachusetts College of Art**

SECTION 556. The Massachusetts College of Art shall submit to the board of higher education, and said board shall consider, a proposal under clause (p) of section 22 of chapter 15A of the General Laws, as amended by section 63 of this act. The proposal shall establish tuition rates and admission standards for the college, and shall assure that the number of undergraduate degree candidates who are Massachusetts residents enrolled on October 1 of 2003 and each subsequent year thereafter shall be no less than 60 per cent of the total number of undergraduate degree candidates enrolled, or the number of Massachusetts residents enrolled on October 1, 2002, whichever is greater. In-state tuition rates for the college shall preserve affordability for Massachusetts residents. Out-of-state tuition rates shall appropriately balance the financial needs of the college with the need to be competitive with peer institutions regionally and nationwide. The proposal shall include provisions for performance standards specific to the mission of said college to be used in place of the performance measurements system otherwise in effect. Within 90 days of the submission of a proposal, the board shall formally approve the proposal, or shall return it to said college with suggested changes. If the board takes no action within 90 days of receipt of said proposal, it shall be considered approved.

#### **Leasing of State-Owned Golf Courses**

SECTION 557. (a) Notwithstanding section 54 of Chapter 7 of the General Laws, the division of capital asset management and maintenance, on behalf of the department of conservation and recreation, is hereby authorized, subject to the provisions of sections 40E to 40K, inclusive, of chapter 7 of the General Laws, to lease and enter into other agreements, for terms not to exceed 5 years, providing for the use, operation, maintenance, repair or improvement of the following state-owned facilities together with the land and appurtenances associated therewith: Ponkapoag Golf Course in Canton and the Leo J. Martin Golf Course in Weston. There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional five years. Such renewal shall be at the discretion of the division of capital asset management and maintenance in accordance with the original contract terms and conditions or contract terms and conditions more favorable to the state. Such leases and other agreements shall be on terms acceptable to the commissioner of the division of capital asset management and maintenance after consultation with the commissioner of the department of conservation and recreation, and, notwithstanding the provisions of any general or special law to the contrary, shall provide for the lessees to manage, operate, improve, repair and maintain the properties. Any such leases or other arrangements requiring improvements to be made to any buildings or surface areas shall include a description of the required improvements and, at a minimum, performance specifications. Such leases and other agreements shall provide that any benefits to the Commonwealth and the costs of improvements and repairs made to the properties provided by the tenants or the recipients of the properties shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements shall be payable to the division of capital asset management and maintenance for deposit into the General Fund. The lessees of said properties shall bear all costs deemed necessary or appropriate by the commissioner of the division of capital asset management and maintenance for the transaction, including without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

(b) The division of capital asset management and maintenance shall solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including but not limited to (1) a comprehensive list of all courses operated by the responsive bidder or offeror in the last four years, (2) commitment to honor terms of current membership agreements, (3) plans to implement a residential discount program, (4) reservation policies and reasonable rates, (5) the rating the course will attain, (6) holiday recognition, (7) required financial audits, (8) grievance process, (9) clubhouse license, (10) retain public access and (11) hours of operation.

(c) Notwithstanding any other provisions of this section, it shall be a mandatory term of any request for proposals issued by the commissioner and of any contract entered into by the state with any party regarding the subject matter of this section that any party which has entered into a contract pursuant to this section with the Commonwealth shall require, in order to maintain stable and productive labor relations

and to avoid interruption of the operation of the courses and to preserve the safety and environmental conditions of said courses, that all employees currently working on the operation and maintenance of the courses be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, the department of conservation and recreation shall attempt to reassign or relocate those employees who do not accept employment with the lessor, to comparable positions within the department subject to applicable collective bargaining agreements.

(d) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any selected offeror which is awarded a contract pursuant to this section, except as provided in this section.

#### **Commonwealth Information Technology Contracts**

SECTION 558. (a) Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall, in consultation with the comptroller and the chief information officer at the division of information technology, conduct a state government wide review of all state-funded information technology projects undertaken by the commonwealth since 1992 in excess of \$500,000, which shall include the acquisition, management and use of information systems. Not later than October 1, 2004, and for all future projects annually thereafter, the secretary shall file a report with the state auditor, inspector general and chairs of the senate and house committees on ways and means and the chairs of the senate and house committees on science and technology. The report shall include, but not be limited to, a list of all ongoing projects, the purpose of such projects, an explanation of the contracting and award process, a breakdown of funds spent on consultants for the planning, development and implementation of information technology projects, and breakdown of estimated project costs at the time the contract was awarded, the actual cost to date, and projected completion costs. The report shall also describe efforts to recoup expenses related to projects for which the commonwealth has not realized the planned benefit from the project. Within 60 days of receipt of said report, the inspector general and state auditor shall submit a report to the chairs of the senate and house ways and means committees identifying any potential opportunity for recoupment of monies expended on such projects.

(b) The secretary of each executive office shall conduct a review of the information technology systems used by each department, office, commission, agency, board or bureau under their administrative authority. The review shall include a description of the systems' compatibility both within and without the secretariat and shall identify any functional problems with the existing information technology systems and recommendations on how such problems ought to be addressed. Each secretary shall file a report to this effect with the secretary of administration and finance, chief information officer of the division of information and technology, state auditor, inspector general and chairs of the senate and house committees on ways and means and the chairs of senate and house committees on science and technology not later than October 1, 2004.

(c) The secretary of administration and finance and the chief informational officer at the division of information and technology shall, prior to the procurement of new information technology systems, conduct a review of existing and proposed information technology systems to determine compatibility with other state information technology systems. The secretary shall keep a record of the projected cost of making newly procured information technology systems compatible with existing systems. Such record shall be made available, upon request, to the chairs of the senate and house committees on ways and means as well as the chairs of the senate and house committees on science and technology.

(d) The chief information officer at the division of information technology, in consultation with the secretary of administration and finance, shall develop and implement a set of standards for the procurement of information technology systems which shall require that: information systems be compatible to the greatest extent possible; such systems be designed to streamline and improve service delivery and reduce duplicative data entry; and provide cross-agency utilization to allow one-portal access to state services.

#### **Reporting Requirements pursuant to Civil Process and Criminal Process**

SECTION 559. Notwithstanding any general or special law to the contrary, each sheriff receiving an appropriation in items 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, 8910-0619 or 8910-0000 shall file a report with the house and senate committees on ways and means no later than February 1, 2004 detailing the civil process fees charged by said sheriff's civil process office, all revenue received from said fees, the compensation structure for deputy sheriffs engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. Said report shall include, but not be limited to, the number of civil process transactions by nature and quantity performed by each civil process office or division annually, fee schedules per transaction for those transactions where section 8 of chapter 262 of the General Laws afford the sheriff discretion to set the fee, the organizational/corporate structure of the civil process office or division in relation to the sheriff's office, the role played by the state or county treasurer in the financial operation of the civil process office or division, an income statement for calendar year 2002, a breakdown of the types and amount of civil process served in 2002, a fee schedule for calendar year 2002, including a list of fees set at the sheriff's discretion, the number of full-time, part-time employees and independent contractors utilized by sheriffs for the service of civil process, the compensation structure used to compensate for such civil process employees and independent contractors, the amount and nature of sheriff's office resources used to support the civil process operation in FY 2002 and FY 2003, the amount and nature of civil process resources used to support the operations and functions of the sheriff's office in FY 2002 and FY 2003, the amount of civil process revenues, if any, deposited into the General Fund of the commonwealth pursuant to section 5 of chapter 34B of the general laws, the amount of civil process revenues, if any, deposited with the county treasurer pursuant to section 22 of chapter 37 of the general laws, the amount of revenues retained by said civil process division or sheriff's office and the statutory authorization relied upon to so retain that amount, a five-year history of all revenues collected from civil process fees, revenues collected per civil process transaction for fiscal year 2003 and, a comprehensive list of all expenditures associated with all revenues generated from the collection of civil process fees.

#### **Distribution of Civil Process and Criminal Process Fees**

SECTION 560. Notwithstanding any general or special law to the contrary, 50 percent of the fees collected by any sheriffs and deputy sheriffs, including those sheriffs and deputy sheriffs serving civil process within a county that has not been abolished pursuant to the provisions of chapter 34B or any other applicable provision of law, in excess of the fee structure in place for section 8 of chapter 262 of the general laws prior to July 1, 2003 and pursuant to section 559 of this act shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. Each sheriff receiving an appropriation in items 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, 8910-0619 or 8910-0000 of section 2 of this act that fails to file the report required by section 559 of this act on or before February 1, 2004 shall

transmit, after February 1, 2004, 100 percent of the fees so collected in excess of the fee structure in place for said section 8 prior to July 1, 2003 and pursuant to section 559 of this act to the state treasurer for deposit into the General Fund of the commonwealth.

#### **Domestic Violence and Family Health Preservation Trust Fund**

SECTION 561. Notwithstanding any general or special law to the contrary, state employees may request that honorariums offered for training and speaking engagements on subjects related to sexual violence or domestic violence be sent to the Treasurer for deposit in the Trust Fund for the Prevention of Sexual and Domestic Violence.

#### **Set Floor for Tobacco Licensing Fees**

SECTION 562. Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall increase licensing fees for wholesalers, vending machine operators and retailers as defined in section 1 of chapter 64C of the General Laws to a level that will support funds appropriated under line item 4590-0550.

#### **Division of Apprentice Training Fees**

SECTION 563. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of not less than \$50 for apprentice program sponsor verification on public bidding projects.

#### **Division of Apprentice Training Fees**

SECTION 564. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of not less than \$300 to certify apprentice training sponsors.

#### **Division of Apprentice Training Fees**

SECTION 565. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of not less than \$40 to certify completion of an apprentice training program by an apprentice.

#### **Division of Apprentice Training Fees**

SECTION 566. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of not less than \$40 for an optician apprentice application.

#### **Division of Apprentice Training Fees**

SECTION 567. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of not less than \$40 for a veteran apprentice program application.

#### **Establishing a Retirement Benefit Fund**

SECTION 568. The retirement board of the Massachusetts Port Authority shall establish a retirement benefit fund for retired employees and the eligible surviving spouse or dependents of deceased employees. The funds shall be credited to a special fund to be known as the Retiree Benefit Trust Fund. The funding for such fund shall be initiated by appropriating and transferring all funds presently in the Massachusetts Port Authority Retirement System that exceed 120 per cent of the required funding for that system as established by the annual report of the system. Any interest or other income shall be added to and become part of the fund. Any funds in the Retiree Benefit Fund shall be trust funds within the meaning of section 54 of chapter 44 of the General Laws. The Massachusetts Port Authority employees' retirement board, or their designee, by a majority vote of the board, shall be the custodian of the fund, and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the commonwealth or in federal savings and local associations situated in the commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth. The board may employ any qualified bank, trust company, corporation, firm or person to advise them on the investment of the fund and may pay for such advice. Amounts shall be added to the fund upon the publishing of the Retirement system's annual report and the establishment that the Retirement Fund exceeds 20 per cent of the fully required funding. All amounts that exceed 120 per cent shall be transferred to the Retirees' Benefit Fund amounts. The retirement board may expend the funds for the benefit of the retirees following a majority vote of the board. Funds may be utilized for the purposes of this trust fund by appropriation at any meeting of The Massachusetts Port Authority retirement board. Monies that exceed the 120 per cent shall be transferred to the Retirees Benefit Account on an annual basis on the anniversary of the initial transfer of the funds.

#### **Early Retirement Incentive Program**

SECTION 569. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by the board for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the commonwealth on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with the board; (v) shall have received

his pay advices via the commonwealth's human resources compensation management system or the University of Massachusetts' human resources management information system; and (vi) shall have filed a written application with the board in accordance with section 2.

The application filed for retirement under this act may be delivered in person or by mail to the state board of retirement. No employee shall be eligible for more than 1 of the incentives offered in this act and no employee may become eligible for 1 incentive by virtue of the application of a different incentive.

Words used in this act shall have the same meaning as when they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this act shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the retirement incentive program.

(b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a retirement date within 4 months of the filing of an application for superannuation retirement, in order to receive the retirement benefit provided by this act, an eligible employee, except as otherwise provided in this section, shall file his application for retirement with the state board of retirement after June 15, 2003 and not later than August 1, 2003. The retirement date requested shall be September 1, 2003, except for employees of the state board of retirement for whom the retirement date requested shall be November 1, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this section. Each such employee shall request and receive a combination of years of creditable service and years of age, the sum of which shall not be greater than 4 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this act.

Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 90 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement.

(f) The secretary of administration and finance may fill an executive branch position vacated as a result of an applicant's participation in the retirement incentive program if the secretary determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after September 1, 2003 until June 30, 2005. If the chief justice for administration and management determines that a position is critical and essential to the operations of or services provided by the commonwealth, such chief justice shall include such position in a schedule which shall

include: (i) the classification title of each position; (ii) the item of appropriation in chapter 184 of the acts of 2002 in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of September 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said chief justice for administration and management shall prepare 1 or more supplementary schedules in the same form if the chief justice shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

(h) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by October 1, 2003 the total value of compensation of the last pay period prior to September 1, 2004, by line item, of each individual that has enrolled in the retirement incentive program.

(i) Notwithstanding any general or special law to the contrary, no person shall be hired by a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after September 1, 2003 until June 30, 2005. If the secretary of administration and finance determines that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, said secretary shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in chapter 184 of the acts of 2002 in which the position is funded; (iii) the number of positions listed in the schedule with such title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of September 1, 2001 to June 30, 2005, inclusive, that said secretary shall have determined that the position shall be filled. The secretary shall prepare 1 or more supplementary schedules in the same form if he shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and said secretary may fill any such positions before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to section 7.

(j) The secretary of administration and finance shall list each position made vacant by the retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the General Laws, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than September 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation from chapter 184 of the acts of 2002 in which the position is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after September 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of higher education shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in chapter 184 of the acts of 2002 in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of September 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated.

The board of higher education shall not create a position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (g) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to section (g).

(l) The board of higher education shall list each position made vacant by the retirement of an employee of a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than September 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation from chapter 184 of the acts of 2002 in which the position is funded, the name of the public institution in the system of higher education, as defined in said section 5 of said chapter 15A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions have been refilled, the date on which they were refilled and the annual salary of each refilled position.

(m) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after September 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of trustees of the University of Massachusetts shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in chapter 184 of the acts of 2002 in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of September 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and such positions may be filled prior to June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees; provided, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated.

The board of trustees or the president of the University of Massachusetts shall not create any position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (i) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to section (i).

(n) The board of trustees of the University of Massachusetts shall list each position made vacant by the retirement of an employee of any division of the University of Massachusetts receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than September 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation from chapter 184 of the acts of 2002 in which the position is funded, the name of the public institution in the system of higher education, as defined in section 5 of chapter 15A of the General Laws, which is funded by item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(o) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this act. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before March 15, 2004.

(p) A state agency with an employee opting into the retirement incentive program under this act shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each such employee.

(q) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/3 of such payment on October 1, 2003, 1/3 of such payment on October 1, 2004 and 1/3 of such payment on October 1, 2005. Each such employee shall sign a statement that he has agreed to receive 1/3 of such payment on October 1, 2003, 1/3 of such payment on October 1, 2004 and 1/3 of such payment on October 1, 2005 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this act. The state board of retirement shall deny an application for early retirement under this act by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this act.

(r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956, as amended, and the Massachusetts Water Resources Authority established pursuant to chapter 372 of the acts of 1984, as amended, may individually elect to allow their Group 1 employees to participate in the retirement incentive program by a majority vote of their

boards of directors, which vote shall occur not later than November 1, 2003. Eligibility for the retirement incentive program shall not exceed that provided in section 1 of this act as applied to the circumstances at the particular authority or agency. Each authority and agency may restructure the retirement incentive program at its discretion but the benefit received by a retiree shall not exceed the retirement benefits provided in section 3. The effective retirement date for employees of the Massachusetts Turnpike Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources Authority shall be not earlier than the effective date of this act and not later than June 30, 2004.

(s) On or before March 15, 2004, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the state-funded full-time equivalent standard workforce as of June 30, 2005 required to accommodate the spending levels authorized by the general appropriation act and supplemental appropriation acts for fiscal year 2005, the number of employees participating in the retirement incentive program, the estimated salary savings in fiscal years 2004 and 2005 as a result of such employees' participation, the number of positions vacated or expected to be vacated as a result of such employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2004 and 2005 on account of such refilled positions.

#### **Reporting of Child Care Development Block Grant Related Spending**

SECTION 570. Notwithstanding any general or special law to the contrary, the office of child care services shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Child Care Development Block Grant. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Child Care Development Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.

#### **Reporting of Transitional Aid to Needy Families Block Grant Related Spending**

SECTION 571. Notwithstanding any general or special law to the contrary, the department of transitional assistance shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Transitional Aid to Needy Families Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.

#### **Higher Education Fringe Costs**

SECTION 572. Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained under section 9C of chapter 15A, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations. This section shall apply only to fringe benefits associated with salaries paid from funds retained by the boards of trustees of public higher education institutions as a direct result of the implementation of section 58 of this act.

#### **Special Education Tuition Rate Freeze**

SECTION 573. Notwithstanding the provisions of any general or special law to the contrary, the division of purchased services of the department of procurement which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated for fiscal year 2003 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4). Programs for which prices in fiscal year 2003 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2004 the full price calculated for fiscal year 2003.

#### **Expanding the Turnpike's Role in Central and Western Massachusetts 3**

SECTION 574. Notwithstanding any general or special law to the contrary and in order to achieve efficiencies, the executive office of transportation and construction, the Massachusetts turnpike authority and the Massachusetts highway department shall identify instances in which the Massachusetts turnpike authority can achieve costs savings and improved performance and service for the maintenance, snow and ice removal, repair, policing, use, administration and operation of interstate highway route 290, interstate highway route 391, and that portion of interstate route 91 from the interchange of interstate highway route 91 with interstate highway route 90 and continuing to the Connecticut border. For the period beginning October 1, 2003 and ending on December 1, 2006, the Massachusetts highway department shall enter into an interagency service agreement with the authority (herein, the "agreement") for the provision of maintenance, snow and ice removal, repair, policing, use administration and operation on such routes in order to achieve cost savings. The authority and the highway department shall submit a report to the joint committee on transportation and the house and senate committees on ways and means on or before January 1, 2005, detailing any and all cost savings to the commonwealth resulting from the agreement and or estimated to result from any proposed agreement to share employees, equipment, and operational activities and functions in order to achieve operational efficiencies, improved performance or services and cost savings, including recommendations to establish a permanent and potentially expanded process for the transfer of certain responsibilities for interstate highway systems in the commonwealth from the highway department to the authority beginning December 1, 2006.

#### **Building Lease of the Department of Environmental Protection**

Section 575. Notwithstanding the restrictions of chapter 7 of the General Laws or any other general or special law or regulation to the contrary, the Division of Capital Asset Management (DCAM) is hereby authorized on behalf of the Department of Environmental Protection (the



department) to renegotiate the department's facilities leases to obtain a reduced lease rate for those facilities for the remaining period of the existing leases, and to extend such leases for a period of up to three years beyond the ten year limitation stipulated in said chapter 7.

#### **Division of Capital Assets Maintenance and Management Operational Costs**

SECTION 576. Notwithstanding the provisions of any general or special law to the contrary, the department of capital assets maintenance and management may expend from capital authorizations amounts necessary to cover the operational costs of the department for fiscal year 2004.

#### **State Agency Lease Negotiation**

SECTION 577. Notwithstanding the provisions of any general or special law to the contrary, for and during fiscal year 2004, the secretary of administration and finance shall identify each lease under which an executive office, a department, an agency, or a division of the executive branch is the using agency, as defined in section 39A of chapter 7 of the General Laws. The said secretary, in consultation with the secretary and commissioner of each using agency and the commissioner of capital assets, shall determine which of such leases shall be funded during fiscal year 2004. Upon determining that a lease is not to be funded, the secretary of administration and finance shall so notify the secretary and the commissioner of the using agency and the commissioner of capital assets. Upon receiving such notice, the commissioner of capital assets shall immediately notify the landlord under such lease that such lease shall be terminated.

#### **Max Ulin Rink**

SECTION 578. Notwithstanding any general or special law to the contrary, the department of conservation and recreation may enter into a lease agreement or agreements with the town of Milton for property currently under the care and control of the department known as the Max Ulin skating rink and the existing adjacent parking area located on Unquity road in the town of Milton, the playing fields consisting of 4 tennis courts and 3 baseball/softball diamonds and an existing adjacent parking area at Houghton's Pond located off Blue Hill River road in the town of Milton. The term of any such lease agreement shall be for 10 years, with an option to renew for up to 10 additional years. Any such lease agreement shall require that all costs, fees and expenses relating to the care and maintenance of such property shall be paid in full by the lessee and other such terms and conditions as the department may require.

#### **Elevator Inspection Fees**

SECTION 579. Notwithstanding any general or special law, rule or regulation to the contrary, the department of public safety shall charge the following fees; (a) fees for annual elevator inspections shall be at least \$400 per inspection and (b) overtime elevator inspection fees shall be at least \$400 per inspection.

#### **Stabilization Fund Transfer**

SECTION 580. Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, the comptroller shall transfer an amount up to \$175,000,000 from the Commonwealth Stabilization Fund to the General Fund for the purposes of funding items authorized in this act.

#### **Chapter 70 Working Group**

SECTION 581. There shall be a senate working group to develop legislation to reform chapter 70 of the General Laws. The working group shall be made up of the president of the senate, the senate chair of the joint committee on education, arts, and humanities, the chair of the senate committee on ways and means, the president pro-tempore of the senate, and the minority leader of the senate, or their designees. The working group shall address matters including but not limited to aid and required local contributions determined under chapter 70 and shall consider how best to allocate state funds equitably to cities, towns, and regional school districts. The working group shall also consider whether and how to reform additional assistance. The working groups shall consider the appropriate balance of property value and income measures in setting local spending requirements, and shall recommend ways to reduce arbitrary discrepancies in required local contributions and state aid levels of similar districts. The working group shall draw on the expertise of interested parties including but not limited to representatives of the department of education and organizations representing educators, school administrators, and local officials. The working group shall submit recommended legislation to the joint committee on education, arts, and humanities on or before September 15, 2003.

#### **Special Education Data Collection**

SECTION 582. The department of education shall collect data on the number of students whose special education costs meet the criteria of line item 7061-0012, shall analyze the associated fiscal impact for school districts; and shall report its findings, along with any proposed recommendations, to the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than February 1, 2004.

#### **Early Education and Care**

SECTION 583. (a) There is hereby established a council on early education and care to support accessible, affordable, quality child care and education for children ages birth through age 5 in the commonwealth. Said council shall consist of the commissioner of the office of child care services, the commissioner of education, and the commissioner of public health.

(b) The council shall approve grants funded through items 7030-1000 and 7030-1500.

(c) The council shall draw on the expertise of representatives of business and industry, higher education, educators, labor unions, parents, and providers of early education and care services. The council shall develop a comprehensive plan to coordinate, integrate, and streamline publicly funded early education and care administration and functions. Said comprehensive plan shall make recommendations to: (1)

coordinate resources and public funding streams for early education and care, including but not limited to funding administered by the office of child care services, the department of education, and the department of public health in order to improve educational quality of services, to assure input at the local level on decision-making, to avoid duplication of effort, and to provide flexible services that meet the diverse needs of children and families; (2) increase regulatory, funding and administrative alignment, including, but not limited to streamlining administrative paperwork, building consistency in policies among publicly funded agencies, and developing appropriate subsidy eligibility criteria, sliding-fee scales, reimbursement rates, services, regulations, and standards of quality; (3) strengthen consumer education relative to early education and care resources; (4) create an effective data collection system to support the necessary functions of a consolidated system of early care to enable accurate evaluation of its impact and to maximize utilization of available federal funding; and (5) establish the appropriate balance between funding for direct provision of service, for quality enhancement, and for administration. In developing its recommendations, the council shall evaluate the current systems of child care and early education delivery in terms of administrative costs, quality of care, quality of education, training and education of early education and care providers, expenditure tracking accountability, and local control. The council shall evaluate the advisability of creating a board of early education and care with oversight of some part or all of publicly funded early education and care in the commonwealth.

(d) The council shall submit its report and recommendations to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education, arts and humanities, and the joint committee on human services and elderly affairs not later than December 1, 2003.

### **One-Stop Shopping for Child Nutrition Services**

SECTION 584. (a) For purposes of this section the phrase "child nutrition programs" shall have the following meaning:--the food service programs administered by the board of education, including the school breakfast program, the school lunch program, the after school snack program, and the summer food service program; the WIC program administered by the department of public health and the food stamp program administered by the department of transitional assistance as it applies to children under the age of 18.

(b) The secretary of the executive office of human services and the board of education shall develop and implement a process for receiving applications and determining eligibility for all child nutrition programs in a centralized manner so as to create a single application process with multiple points of entry for all child nutrition programs for the purpose of simplifying access to child nutrition programs. That process shall allow for the submission of applications through private agencies or organizations, in addition to submission through either of the departments or a school district. The process shall also allow for the submission of applications in person, by mail, or through electronic means. In implementing the process the secretary and the board shall, consistent with all applicable laws and regulations, protect the confidentiality and privacy of applicants and their personal information. The secretary shall seek any federal waivers that may be necessary to implement the process.

(c) The secretary and the board of education shall jointly develop a single application for all child nutrition programs. The single application shall require applicants to provide no more than the minimum amount of information required by applicable state and federal statutes and regulations. The application and instructions shall be the shortest necessary to achieve their purpose and shall be written at an appropriate reading level. The application shall also be made available in languages commonly spoken by applicants.

(d) The secretary and the board of education shall coordinate policies, programs, and outreach activities for all child nutrition programs.

### **Transfer Students**

SECTION 585. The board of higher education shall develop a system to track students who transfer out of public institutions of higher education in order to improve data on what degrees, if any, those students earn from other institutions of higher education.

### **Ed Reform Minimum Contribution Waiver**

SECTION 586. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2004. Based on the criteria in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which shall not be available for use in the next fiscal year or that shall be required to use revenues for extraordinary nonschool-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor may appeal to the department of revenue not later than October 1, 2003 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2004 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, said department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, in a majority of the member municipalities, a regional school district which used qualifying revenue amounts in a fiscal year that shall not be available for use in the next fiscal year shall appeal to the department of revenue not later than October 1, 2003 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) A regional school district which received regional school incentive aid in fiscal year 1995 shall, upon the request of the board of selectmen in a town, the city council in a Plan E city or the mayor in any other city, in a majority of the member municipalities, appeal to the department of education for an adjustment in the minimum required local contribution of its member municipalities. The department of education may reduce the increased assessment of the member municipalities as a result of the reorganization of the regional school district by using a portion of the regional incentive aid to reduce the prior year local contribution.

(g) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(h) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined shall be deemed to be the minimum required local contribution described in chapter 70 of the General Laws. The house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue and the department of education of the amount of any reduction in the minimum required local contribution amount.

(i) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(j) The amount of financial assistance due from the commonwealth in fiscal year 2004 under said chapter 70 or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(k) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

#### **Establishment of the Forensic Sciences Advisory Board**

SECTION 587. There shall be a Forensic Sciences Advisory Board to provide recommendations for the implementation of a coordinated approach to forensic science services for the Commonwealth. The board shall be comprised of the president of the Massachusetts District Attorneys Association, the attorney general or his designee, the secretary of public safety or his designee, the secretary of health and human services or his designee, the commissioner of public health or his designee, the chief justice of the Massachusetts superior court or his designee, and five experts with academic or professional experience in forensic sciences to be appointed by the Governor. The Governor shall appoint one of said five experts as the chair of the board. The board shall convene no later than August 1, 2003 and issue a report to the joint committee on public safety and the house and senate committees on ways and means including, but not limited to, recommendations on:

a) improved efficiency in forensic science services, including measures to improve communication and coordination between laboratories and agencies and to reduce duplication of services and resources;

b) potential public-public and public-private partnerships;

c) improved accountability and responsiveness of commonwealth's forensic science services; and

d) potential reorganization of forensic laboratory services in the commonwealth, including consideration of the reorganization of related laboratories and offices under the department of forensic sciences.

The report shall be filed no later than January 1, 2004. The Board shall convene quarterly, and shall submit recommendations to the secretary of public safety on an ongoing basis.

#### **Self-Sufficiency Standard**

SECTION 588. (a)(1) Not later than October 1, 2003, the Commonwealth Corporation, referred to in this section as the "Corporation," shall contract with a research unit or organization that has experience in studying what is necessary to attain self-sufficiency in the commonwealth for the purpose of developing a self-sufficiency standard for the commonwealth, referred to in this section as the "standard." As used in this section, the term "self-sufficiency standard," shall mean the amount of income needed by a family or household to provide for adequate housing, food, child care, health care, transportation and employment-related expenses, and to pay taxes.

(2) The standard shall be developed using methods and data sources similar to those used in the self-sufficiency standard for the commonwealth published in 1998 by Wider Opportunities for Women and the Women's Educational and Industrial Union. The standard shall be determined according to family size and age of children, and shall take into account regional variations in the costs of housing and child care, the differential inflation rates that affect the growth of these costs, and the effect of existing tax laws, including state sales tax, payroll taxes, federal and state income tax, child care tax credits and the earned income tax credit. In developing the standard, the research unit or organization shall rely, to the extent possible, on data reported by the United States Census Bureau, United States Department of Housing and Urban Development and on other data reported to state and federal agencies using standardized methodology and shall consult with state departments or agencies that serve low-income populations. Housing costs will be determined using fair market rents for apartments as reported by the United States Department of Housing and Urban Development. Child care costs will be determined using average costs for licensed child care facilities, including, but not limited to, family day care, as reported to the commonwealth's child care resource and referral agencies for children of different ages in different areas of the state.

(b) The president of the Commonwealth Corporation shall establish an advisory board to advise the Corporation on all matters relating to the development of a self-sufficiency standard and future revisions to it. The advisory board shall be composed of 16 members, each of whom shall serve a term of 2 years. The following shall be members of the board: the director of labor and workforce development or her designee; the secretary of health and human services or his designee; the director of housing and community development or her designee; 1 member of the senate to be appointed by the senate president; 1 member of the house of representatives to be appointed by the speaker of the house of representatives; the chairman of the board of higher education or his designee; 1 faculty member of a Massachusetts university or college with research expertise in the areas of demographics, living costs and labor markets to be selected by the Commonwealth Corporation; and representatives of the following 9 organizations to be nominated by their respective organizations and selected by the Commonwealth Corporation: the Massachusetts Family Economic Self-Sufficiency Project; the Massachusetts AFL-CIO; the Associated Industries of Massachusetts; the Massachusetts Association of Community Colleges; the Massachusetts Taxpayers Foundation; the Massachusetts Workforce Boards Association; the Massachusetts Community Action Program Directors' Association; the Citizens' Housing and Planning Association; and the Massachusetts Association of Day Care Agencies. Members of the advisory board shall serve without compensation. The Commonwealth

Corporation shall reimburse the members for necessary expenses incurred in furtherance of their duties, and shall provide adequate staff to the advisory board so that it can perform its functions effectively.

(c)(1) Not later than March 31, 2004, the Commonwealth Corporation shall report the self-sufficiency standard, including the methodology used to arrive at the standard and any legislative recommendations for making the self sufficiency standard effective, to the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on commerce and labor. The Commonwealth Corporation shall also make the report available to each of the state executive offices and agencies, including, but not limited to, the executive office of health and human services, the department of labor and workforce development, the department of transitional assistance, the department of public health, the department of social services, the Massachusetts rehabilitation commission, the department of housing and community development, the department of economic development, the Massachusetts office of business development, the office of child care services, the board of higher education, all workforce investment boards and One Stop Career Centers.

(2) The standard shall be made available to educational institutions, nonprofit organizations, and the general public upon request. The standard shall also be made available on any internet site established and maintained by the Commonwealth Corporation.

(d) The standard shall be updated and issued every other year by the Commonwealth Corporation and shall be reported on March 31 in the second year of each sitting of the general court , with the next update on March 31, 2005.

#### **Energy Savings Commission**

SECTION 589. (a) There shall be a special commission to study the energy consumption of the government of the commonwealth. The commission shall specifically review the annual level and cost of energy consumption by executive offices, departments, agencies and divisions of the commonwealth's government over the past three fiscal years and shall develop a plan to conserve energy by reducing the government's annual energy consumption rates by at least 10% compared to the average consumption rates over the past three fiscal years and by increasing the use of energy efficiency methods. The commission shall also investigate and devise a plan to include renewable energy sources in the government of the commonwealth's energy portfolio. The commission shall hold at least four statewide public hearings as part of its review. The commission shall report its findings and any proposed legislation to the clerks of the senate and the house of representatives not later than March 1, 2004. A copy of such report shall also be submitted, by said date, with the secretary of administration and finance, who shall take steps necessary to implement the recommendations of the commission.

(b) The special commission shall consist of 14 members. Eight members shall be appointed by the governor, including the chair of the department of telecommunications and energy, or his designee; the commissioner of energy resources, or his designee; the commissioner of the division of capital asset management and maintenance, or his designee; the secretary of the executive office of administration and finance, or his designee; the secretary of the department of transportation, or his designee; the president of the University of Massachusetts or his designee; the superintendent of state office buildings or his designee; and a representative from the Massachusetts Technology Park Collaborative. Three members shall be appointed by the senate president, including the senate chair of the joint committee on energy; a representative from the International Brotherhood of Electrical Workers; and a representative from an organization that addresses energy conservation issues. Three members shall be appointed by the speaker of the house of representatives, including the house chair of the joint committee on energy; a representative from the National Association of Government Employees; and a representative from an organization that addresses energy conservation issues.

#### **EOPS Reorg 6**

SECTION 590. There is hereby established a commission to study the advisability of transferring other state agencies or laboratories into the department of forensic sciences. The members of the commission shall be the attorney general or his designee, the secretary of public safety of his designee, the commissioner of public health or his designee, the chief justice of the superior court or his designee, the colonel of the state police or his designee, two representatives of the Massachusetts District Attorneys Association, a representative of the Massachusetts bar association who is engaged in the practice of criminal defense and a representative of the Massachusetts Police Chiefs Association. The commission shall submit a report of its findings and recommendations on the advisability of transferring other state agencies or laboratories into the department of forensic sciences to the governor, the chairs of the joint committee on criminal justice and the chairs of the house and senate committees on ways and means not later than July 1, 2004.

#### **Government Efficiency Study Commission**

SECTION 591. (a) There shall be a special commission appointed to investigate and study methods of improving the accountability, economy and efficiency of the government of the commonwealth and the operation of its agencies, departments and instrumentalities in any or all of the following ways, including:

(1) adopting methods and procedures for reducing expenditures in the lowest amount consistent with the efficient performance of essential services, activities and functions;

(2) eliminating duplication and overlapping services, activities and functions;

(3) consolidating services, activities and functions of a similar nature;

(4) abolishing services, activities and functions not necessary to the efficient conduct of state government;

(5) eliminating unnecessary state departments and agencies, creating necessary new state departments and agencies, reorganizing existing state departments and agencies, and transferring functions and responsibilities among state departments and agencies;

(6) defining or redefining duties and responsibilities of state officers;

(7) analyzing outstanding bond authorizations and making recommendations on whether they should be amended;

(8) establishing means for performance measurement and methods of reporting such measurement;

(9) reorganizing, consistent with the commonwealth's obligations under collective bargaining agreements, all aspects of state career public service, including, but not limited to, methods of recruitment and retention of state employees; training and re-training of state employees; job classification, salaries and benefits of state employees; discipline and termination of state employees; clarifying the state responsibilities and functions that are best served by regular state employees and those best served by contract employees; and encouraging and facilitating opportunities for private sector and non-profit sector employees to work in state government for limited periods of time if not violative of collective bargaining agreements;

(10) analyzing and evaluating all state contracts with private vendors for the purpose of confirming that all contracted approaches to the delivery of goods and services are accountable, economical and efficient; and

(11) reviewing state requirements for contracting for goods and services and for the retention of professional services to determine the most efficient means of determining the most qualified vendor, including, but not limited to, a review of the method by which state agencies, authorities, boards and commissions retain legal counsel, accounting, architectural and engineering services.

(b) The commission shall consist of the following members, each of whom shall serve at the pleasure of the appointing authority: (1) 13 members of whom 7 shall be appointed by the governor, 3 by the senate president and 3 by the speaker of the house with not more than 7 of the 13 members being registered voters in the same political party, and none of whom shall hold public office in the executive or legislative branches of the state government, and with residents of the commonwealth who are leaders in the fields of business and government management, accounting, labor relations, finance and human relations, including, but not limited to, a representative of the AFL-CIO, and professors of business, public administration and other relevant disciplines, being considered for these appointments; (2) 5 members of the senate, including the chair of the senate committee on ways and means, the senate chair of the committee on taxation, the chair of the senate committee on post audit and legislative oversight and 2 members designated by the senate minority leader; (3) 5 members of the house of representatives, including the chair of the house committee on ways and means, the house chair of the committee on taxation, the chair of the house committee on post audit and legislative oversight and 2 members designated by the house minority leader; (4) the governor, the president of the senate and the speaker of the house, who shall serve on the commission, ex-officio, and who shall jointly designate the chair or co-chairs of the commission; and (5) the state auditor and the inspector general of the commonwealth, ex-officio.

(c) The commission shall meet monthly and may, subject to the approval of the secretary of administration and finance, request staff support and research from state agencies in furtherance of its responsibilities. The commission may seek assistance from other individuals or organizations on a pro bono basis. The commission shall file an annual report with the clerks of the senate and house of representatives and the chairs of the senate and house committees on ways and means and shall file a final report not later than June 30, 2006. The commission may file interim reports as appropriate.

### **Commission on Transportation Restructuring**

SECTION 592. There shall be a special commission called the Commission on Transportation Restructuring to study the administration of the highway system in Massachusetts. The members of the commission shall include the secretary of the executive office of transportation and construction or his designee, who shall be the chairperson of the commission; the commissioner of the Massachusetts highways department or his designee; the chairperson of the Massachusetts turnpike authority or his designee; the chair of the commonwealth development coordinating council; the commissioner of the department of conservation and recreation in the executive office of environmental affairs or his designee; 2 members appointed by the speaker of the house of representatives, 1 of whom shall be the House chair of the joint committee on transportation; 1 member appointed by the minority leader of the house; 2 members appointed by the senate president, 1 of whom shall be the Senate chair of the joint committee on transportation; 1 member appointed by the minority leader of the senate; and 4 members appointed by the governor, 1 of whom shall be a representative of the construction trades, 1 of whom shall come from a list of 3 candidates submitted by the Massachusetts Business Roundtable and 1 of whom shall represent an environmental advocacy organization. Said commission shall consider various reforms designed to achieve more efficient administration of the highway system, including but not limited to 1) the abolition of the board and commissioner structure of the Massachusetts highways department; 2) allocating maintenance responsibilities for Massachusetts boulevards and parkways; 3) the appropriate composition and power of the board of the Massachusetts turnpike authority; 4) the efficacy of interagency service agreements for the maintenance of Massachusetts highways; and 5) the establishment of a single state agency responsible for highway administration. The commission shall also report on the results of the pilot project for the maintenance of highways in central and western Massachusetts initiated in sections 240, 241, and 574 of this act. The commission shall submit a report summarizing its findings and recommendations, including recommendations for legislative action, to the secretary of administration and finance, the joint committee on transportation and the house and senate committees on ways and means no later than December 15, 2003.

### **Public Health Emergency Planning Council**

SECTION 593. (a) Notwithstanding any general or special law to the contrary, there shall be a public health emergency planning council to plan for a public health emergency and oversee and coordinate all matters pertaining to the public health emergency response of the Commonwealth. The council shall consist of the attorney general, the director of the Massachusetts emergency management agency, the secretary of public safety, the secretary of health and human services, the director of the Massachusetts office of commonwealth security, and the commissioner of public health. The governor shall appoint the chair of the council.

(b) There shall be established a state bioterrorism preparedness and response program advisory committee. The advisory committee shall, at the request of the chair of the council, provide such advice and counsel as it deems appropriate including, but not limited to, serving as a resource for studies and projects undertaken by the council or sponsored by the council. The advisory committee may also review and comment on plans proposed by the council pursuant to section 5 of this act.

The advisory committee shall consist of the following members: the director of consumer affairs and business regulation or a designee with authority, the commissioner of the department of environmental protection or a designee with authority, the adjutant general or a designee with authority, the commissioner of mental health or a designee with authority, the commissioner of food and agriculture or a designee with authority, the executive director of the Massachusetts biotechnology council or a designee with authority, the executive director of the Massachusetts retail pharmacy association or a designee with authority, a representative of the Massachusetts professional firefighters association, the president of the Massachusetts sheriffs association or a designee with authority, a representative of the Massachusetts call/volunteer firefighters association, the state fire marshal or a designee with authority, a representative of the Massachusetts chapter of the American red cross, a representative of the Massachusetts hospital association, a representative of community health centers, two representatives of the Massachusetts medical society with one representing family practice, a representative of the Massachusetts nurses association, a representative from the Massachusetts organization of nurse executives, a representative of the Massachusetts Public Health Association, a representative of the Massachusetts Association of Health Boards, a representative from the Massachusetts health officers association, a representative from the center of health professions at Worcester state college, a representative of the Massachusetts association of public health nurses, a representative from a pediatric specialty hospital, a representative from the Massachusetts chapter of the academy of pediatric physicians, a representative from the Massachusetts environmental health association, a representative of the college of emergency physicians, a representative from each of the emergency medical service regions, the chancellor/dean of the University of Massachusetts Medical School or a

designee with authority, the dean of a school of public health located within the Commonwealth, the dean of a school of veterinarian medicine located within the Commonwealth, and such other officers of the Commonwealth as the governor may designate. The council by majority vote shall designate the chair of the advisory committee.

(c) The council shall, within nine months of its appointment, assess the statewide preparedness of the agencies of the commonwealth, its political subdivisions, emergency responders, law enforcement personnel, and the health care providers licensed by the commonwealth to prevent or respond to a public health emergency, to assure the coordination of their activities with one another and with appropriate federal agencies; and then deliver to the Governor and the General Court, a plan for responding to a public health emergency and a list of legislative actions needed to support a plan. The plan shall include, but is not limited to, provisions for the following:

1. A means of notifying and communicating with the population during a state of public health emergency in compliance with this act, including the readiness and adequacy of communications networks, especially Emergency-911, for receiving and broadcasting health alerts; the potential for developing a "hotline" that citizens who believe they may have been exposed can call for information and referral; the potential for developing a web site for communicating the latest and most accurate information; the readiness and adequacy of information and data systems for managing the health system response to a public health emergency; and an evaluation and recommendation for expansion of the pilot hospital volume surveillance system to cover the entire state;

2. Lines of authority for a communications network used to report a public health emergency;

3. Coordinated communications network, possibly including regular public briefings by state and local health officials, to convey the public information needs to manage the "epidemic" of fear and minimize panic relating to awareness of, or a threat of, a public health emergency;

4. Central coordination of resources, manpower, and services, including coordination of responses by state, local, and federal agencies;

5. The location, procurement, storage, transportation, maintenance, and distribution of essential materials, including medical supplies, drugs, vaccines, food, shelter, and beds;

6. The continued, effective operation of the judicial system including, if deemed necessary, the identification and training of personnel to serve as emergency judges regarding matters of isolation and quarantine as described in this act;

7. The method of evacuating populations, and housing and feeding the evacuated populations;

8. The identification and training of health care providers to diagnose and treat persons with infectious and contagious diseases;

9. Laws or regulations necessary to permit the movement, assignment or transfer of any licensed physicians, nurses or other health care personnel, including the credentialing of health care professionals at institutions other than their own; and training and certification programs that could allow inactive or retired health care personnel to be activated for work in health care facilities during a public health emergency; and that the council shall submit a report on the feasibility of expanding the patient volume assessment pilot program being performed by the office of emergency medical services to all emergency departments at health care facilities in the Commonwealth.

10. Vaccination of persons, in compliance with the provisions of this act.

11. The treatment of persons who have been exposed to or who are infected with diseases or health conditions that are or may reasonably be the cause of a public health emergency;

12. The safe disposal of infectious wastes and human remains, in compliance with the provisions of this Act;

13. The safe and effective control of persons isolated, quarantined, vaccinated, tested or treated during a public health emergency;

14. Tracking the source and outcomes of infected persons;

15. The ability to handle so-called "surge capacity" problems in the event of a disaster which requires the use of all available hospital beds, including the potential to utilize closed or abandoned health care facilities for use in the event of a severe health emergency or to develop hospital rooms designed to serve patients whose condition requires isolation; and ensuring that each city and county within the commonwealth identifies the following:

a. sites where persons can be isolated or quarantined, with such sites complying with the provisions of this act regarding the least restrictive means for isolation and quarantine, and the requirements for the safety, health and maintenance of personal dignity of those isolated or quarantined;

b. sites where medical supplies, food, and other essentials can be distributed to the population;

c. sites where emergency workers can be housed and fed;

d. routes and means of transportation of people and materials;

16. Utilization of school nurses and public health nurses for monitoring, detection, vaccination and immunization;

17. Coordination with other states and the federal government;

18. Investigate the feasibility and the implementation of a state based biological agent registry.

19. Taking into account cultural norms, values, and traditions that may be relevant;

20. Assess the crisis counseling capacity for emergency response personnel; health care providers; law enforcement personnel; and the general public;

21. Designation of a state official to serve as liaison to the federal Office of Homeland Security and work with said office on an ongoing basis;

22. Review the potential for the development of a state agency or public authority to manage a venture capital fund for the development of anti-bio-terrorism technologies, and for the encouragement of new companies to enter this market with representatives of the biotechnology industry and appropriate state agencies and educational institutions;

23. Conduct an assessment of the preparedness of the telecommunications division, statewide telecommunications systems and networks and public utilities engaged in telecommunications to prevent or respond to acts of terrorism, including cyber-terrorism;

24. Conduct a study to examine concerns with regard to civil liberties protections in preparation of a public health emergency and during a public health emergency.

25. Study the feasibility of the implementation of a statewide and local public health and safety disaster informational and referral computer system including, but not limited to, local boards of health, municipal health departments and the Massachusetts emergency management agency.

26. Capacity of laboratories across the Commonwealth to respond to a public health emergency and improving the laboratory surveillance infrastructure and the epidemiological infrastructure of the state;

27. Public health surveillance activities and data collection and analysis in responding to a public health emergency;

28. Preparation for receiving, distributing and administering items from the National Pharmaceutical Stockpile and the development and management of any state pharmaceutical stockpile for antibiotics, antitoxins, antidotes, ventilators, respirators and other medical/surgical supplies and equipment needed to treat patients in a mass casualty event; development of a system for tracking the available blood supply, and coordinating and distributing blood donations;

29. Reporting requirements of rare, unusual or unexplained illnesses that could be related to a public health emergency; development of an analysis of the threat of biological and chemical attacks in the commonwealth; and a description of the procedures for holding practice biological or chemical attack drills and simulations;

30. Development of a plan addressing the effects of rationing equipment, personnel and supplies;

31. Distribution of this plan and guidelines to those who will be responsible for implementing the plan and/or implement provisions of this Act;

32. Distribution of a list and description of funding needs in order to comply with this act and/or implement provisions of this act to the senate and house committees on ways and means; and

33. Other measures necessary to carry out the purposes of this act.

(b) The council shall review its plan for responding to a public health emergency every two years, beginning in 2004, and shall submit a report to the governor and general court immediately after the review.

(c) The council shall take into account the unique needs of Cape Cod, Martha's Vineyard, and Nantucket, including, but not limited to, its geography and population fluctuations, under this section.

#### **Massachusetts Public Higher Education Research Council**

SECTION 594. The board of higher education is hereby authorized to establish an entity to be known as the Massachusetts Public Higher Education Research Council. Such entity shall be authorized to solicit and secure grants, gifts, and tax deductible contributions in support of its activities and shall be expected to fund its ongoing activities from such funds. Such activities shall include but not be limited to the conduct of research to identify and promote best practices in both the academic and management activities in public higher education, the establishment and support of demonstration projects to establish such best practices within the commonwealth, and the promotion of shared service delivery and administrative efficiencies among and between institutions of public higher education in the commonwealth.

#### **State College Blue Ribbon Commission**

SECTION 595. The board of higher education shall convene a blue ribbon commission to research, assess, and make recommendations regarding the health, vitality, and future direction of the state college system not later than September 1, 2003. Said commission shall be composed of individuals drawn from the fields of higher education, government, and business. Said commission shall file its findings and report with the joint committee on education, arts, and humanities by March 30, 2004. Such individuals should represent state, regional, national perspectives on the challenges facing higher education and should be recognized for their achievement in their various fields.

#### **Higher Ed Tuition and Fee Study**

SECTION 596. The board of higher education shall evaluate the tuition and fees, mandatory and non-mandatory, charged for attendance at each institution of public higher education. The evaluation shall take into consideration the cost of education at each institution, which shall be defined as the total level of state and student supported education and general expenditures less auxiliary enterprises, state restricted grants and contracts, and debt service for fiscal year 2003, in order to determine the amount of tuition and fees that students are charged at each institution to meet the student share of the cost of education in fiscal year 2003; and the amount of fees that students are charged for costs not included in the cost of education, in fiscal year 2003; provided, however, that the board is not precluded from comparing said costs and amounts to costs incurred or charged in other fiscal years.

The board shall use such information to evaluate and make recommendations on (1) the advisability of redefining fees as a non-mandatory source of student payment charged by an institution for participation in campus activities and for the purchase of specific non-obligatory services; (2) appropriate policies for setting tuition levels; (3) appropriate policies for funding tuition waivers; and (4) how best to adjust state appropriations in order to account for fringe benefit costs of campus employees paid from tuition retained at higher education institutions in fiscal years 2005 and thereafter as a direct result of section 58 of this act in a manner which makes campus tuition retention revenue neutral to the state.

Said evaluation and recommendations shall be reported to the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than December 15, 2004.

#### **Court Reform VIII**

SECTION 597. The judicial council, after consulting the advisory board, shall report in writing on the functioning of sections 468 to 472, inclusive, 474 and 476 of this act, together with any recommendations for further legislation improving the administration of the judicial department and further defining the authority and responsibility of the administrator, the council, and the advisory board with respect to the administration and management of the judicial department. The council shall file its report with the clerks of the senate and house of representatives not later than March 1, 2004.

#### **Continuing Implementation of Health and Human Services Reorganization**

SECTION 598. The secretary of health and human services shall conduct or commission studies on policy areas necessary for the continuing implementation of the reorganization of health and human services in order to realize the greatest benefits of the reorganization in terms of administrative efficiency, improved service delivery and cost savings. The secretary will report the results of these studies and accompanying recommendations to the house and senate committees on ways and means and the joint committees on human services and elderly affairs and state administration no later than October 1, 2003. Policy areas to be studied will include, but not be limited to, the following areas:

a) The desirability and feasibility of using Aging Service Access Points (ASAPs) to screen disabled individuals seeking placement in nursing homes for suitability for community-based care.

b) The purchase of service (POS) contract system used to deliver services to clients of the health and human services secretariat. This study shall include, but not be limited to, an examination of the costs and benefits of standardizing the POS system, developing a rate-setting methodology that identifies all costs of delivering services, instituting a cost-benefit analysis system to determine the financial impact of mandated services, indexing multi-year contracts, and switching to a client rather than service-based model of procuring services. This study will examine the impact of these possibilities on the quality of client service provided, the ability of providers to supply necessary services and receive adequate reimbursement, and the cost to the commonwealth.

c) The co-location of offices of different health and human services agencies within the same building. This study shall include, but not be limited to, the cost savings and cost efficiencies expected to be achieved through office co-location, the impact of office co-location on integrated service provision to clients receiving services from multiple health and human services agencies, the interaction between co-location of offices and the development of standardized health and human service agencies service areas, and the impact of co-locating offices on service accessibility, particularly for those clients in areas from which an agency office will be moved. This study shall also include a list of all office consolidations and closures planned by the executive office to take place before the end of fiscal year 2005.

d) The elimination of duplicative licensing requirements imposed on health and human service providers by agencies within the secretariat. This study shall include, but not be limited to, an evaluation of the costs and benefits of centralizing licensing functions and standardizing licensing requirements for health and human service providers.

e) The consolidation of abuse investigation operations. This study shall include, but not be limited to, an evaluation of the costs and benefits of consolidation with regards to expertise and subject familiarity and the incorporation of information generated by investigations into the other continuing activities of health and human service agencies.

f) The standardization of income verification and re-verification procedures for state programs that are means tested. This study shall include, but not be limited to, an evaluation of the accuracy of income verification and re-verification procedures used by all agencies, the burden level placed on recipients by these procedures, and the cost and benefits of standardizing these practices across all health and human service agencies.

### **Quality Improvement Plans**

SECTION 599. The commissioner of conservation and recreation, in consultation with the division of capital asset management and maintenance, shall devise a long-term plan for improving the quality of the services offered in recreational facilities in the commonwealth. Such plan shall consider the feasibility and merits of executing long-term lease arrangements for recreational facilities that are under the control of the department, including but not limited to those recreational facilities under the control of the metropolitan district commission as of June 30, 2003. The commissioner shall also report on the long-term lease program implemented by the former department of environmental management for the skating rinks formerly under its control, including an evaluation of the capital improvements that have been made, improvements in service and hours of operation and the financial results of such transactions. The commissioner shall also recommend ways to attract quality bidders, maximize capital improvements, extend hours of operation and the services that are available in such facilities and to minimize personnel disruption resulting from such transactions. The plan shall include recommendations for legislative actions that may be required to improve the quality of services in recreational facilities. The commissioner shall submit his report to the house and senate committees on ways and means and to the joint committee on natural resources and agriculture no later than December 1, 2003.

### **Transferability of Personnel Funding for the Secretary of Economic Affairs**

SECTION 600. The secretary of the executive office for economic affairs may, at his discretion, transfer the costs of personnel, from subsidiary codes AA and DD, between items 7002-0010, 7002-0100, 7002-0200, 7002-0600, 7006-0000, 7006-0020, 7006-0040, 7007-0100, 7007-0300, 7007-0900, and 7007-1500; provided, that the secretary provides the committees on ways and means with a written plan for any such transfer 30 days in advance; provided further, that this plan shall include the number of full time equivalencies and the amounts being transferred; and provided further, the secretary may make any such transfer during the period from July 1, 2003 to January 1, 2004.

### **Out-of-State Firefighting Services Trust Account**

SECTION 601. Notwithstanding the provisions of any general or special law to the contrary, the department of conservation and recreation may deposit into a trust account and expend federal reimbursement for out of state firefighting costs authorized under section 44 of chapter 138 of the acts of 1991.

### **Disposition of Surplus Property**

SECTION 602. (a) Notwithstanding the provisions of sections 40E through 40F1/2 and 40H of chapter 7 of the General Laws, or the provisions of any other general or special law to the contrary, the commissioner of the department of capital assets is hereby authorized to sell, lease for a term not to exceed 99 years, transfer or otherwise dispose of surplus real property of the commonwealth, as specified herein.

(b) For purposes of this section, the following terms shall have the following meaning, unless the context clearly requires otherwise:

(1) "Commissioner", the commissioner of the department of capital assets management and maintenance.

(2) "Real property", shall be as defined in section 39A(s) of chapter 7.

(3) "State agency", shall be as defined in section 39A(v) of chapter 7.

(4) "Surplus real property", real property of the commonwealth (a) previously determined to be surplus to current and foreseeable state needs pursuant to sections 40F or 40F1/2 of chapter 7, but excluding real property for which there is an established local reuse plan; or (b) determined to be surplus to current and foreseeable state needs pursuant to this section. The term "surplus real property" shall not include property subject to Article 97 of the amendments to the constitution.

(c) In order to determine if specified real property is surplus to the current and foreseeable needs of the commonwealth, the commissioner shall provide a suitable written notice and inquiry to the several secretaries, with a date certain for any response. If no executive office responds in writing by the date so specified that an agency has a current or foreseeable need for the real property, then the commissioner may declare said property as surplus and dispose of same in accordance with this section. Alternatively, if a written response is timely received specifying a current or foreseeable need for the real property, the commissioner shall, in consultation with the secretary of administration and finance and with those responding affirmatively, determine whether the real property shall (a) be made available for current use by a state agency,



(b) be retained on account of a foreseeable use by a state agency, or (c) be declared surplus real property which may be disposed of pursuant to this section.

(d) When real property is determined to be surplus to current state needs but not to foreseeable state needs, the commissioner shall take such necessary action to ensure that any disposition of the real property is temporary and maintains the commissioner's ability to make such real property available to a state agency as needed.

(e) If the commissioner determines that the real property is surplus, he shall (1) provide written notice, for each city or town in which the property is located, to the city manager in the case of a city under Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of the town, the county commissioners, the regional planning agency and the members of the General Court; (2) declare it available for disposition and shall identify restrictions, if any, on its use and development necessary to comply with the policies and principles established by the commonwealth development coordinating council established in section 8B of chapter 6A of the General Laws and other established state and local plans and policies; (3) conduct a public hearing in the locality in which the property is located to consider potential reuses and appropriate restrictions if the property parcels exceeds two acres or if the commissioner determines that a hearing should be held for a smaller parcel and shall provide reasonable public notice in advance of the hearing; and (4) ensure that any deed, lease or other disposition agreement shall set forth all such reuse restrictions, provide for effective remedies on behalf of the commonwealth, and provide, in the event of a failure to comply with the reuse restrictions by the grantee, lessee or other recipient, that title or such lesser interest as may have been conveyed, shall immediately revert to the commonwealth.

(f) The commissioner shall establish the value of surplus real property using customarily accepted appraisal methodologies. The value shall be calculated both for (1) the highest and best use of the property as may be encumbered, and (2) subject to uses, restrictions and encumbrances defined by the commissioner. In no instance in which the commonwealth retains responsibility for maintaining the said property shall the terms provide for payment of less than the annual maintenance costs.

(g) The commissioner shall dispose of surplus real property utilizing appropriate competitive processes and procedures. Such competitive processes may include, but are not limited to, absolute auction, sealed bids, and requests for price and development proposals.

At least 30 days before the date of an auction or the date on which bids or proposals or other offers to purchase or lease surplus real property are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 stating the availability of such property, the nature of the competitive process and other information deemed relevant, including the time and location of the auction, the submission of bids or proposals, and the opening thereof.

(h) The commissioner shall place a notice in the central register identifying the individual or firm selected as party to such real property transaction, along with the amount of such transaction. If the commissioner accepts an amount below the value calculated under subsection (f), he shall include the justification therefor, specifying the difference between the calculated value and the price received.

(i) No agreement for the sale, lease, transfer, or other disposition of surplus real property, and no deed, executed by or on behalf of the commonwealth, shall be valid unless such agreement or deed contains the following certification, signed by the commissioner:

The undersigned certifies under penalties of perjury that I have fully complied with the provisions of section \_\_\_ of chapter \_\_\_ of the acts of 2003 in connection with the property described herein.

(j) No agreement for the sale, lease, transfer, or other disposition of surplus real property shall be valid unless the purchaser or lessee has executed and filed with the commissioner the statement required by section 40J of chapter 7.

(k) The grantee or lessee of any surplus real property shall be responsible for all costs including but not limited to appraisals, surveys, plans, recordings and any other expenses relating to the said transfer, as shall be deemed necessary by the commissioner.

(l) This section shall not apply to the disposition of real property that is the subject of a special act having an effective date prior to that of this section.

(m) The authority granted the commissioner hereunder shall cease as of June 30, 2005; provided however, that the commissioner may complete any transaction for which agreements have been signed and delivered on or before that date.

(n) The commissioner shall deposit \$40 million of the proceeds realized from property dispositions pursuant to this section into the General Fund. Any proceeds in excess of that amount shall be deposited into the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws.

### **Quarterly Savings Report**

SECTION 603. The secretary of administration and finance shall file quarterly reports identifying with particularity all cost savings that result from greater efficiency or the reduction of wasteful expenditures in the executive branch during said quarter, beginning on October 1, 2003. The reports shall include, but not be limited to: (a) a list of employee positions eliminated, whether by attrition or termination, showing for each the salary, job title, and state agency; and (b) a list of real property leases terminated or renegotiated by the Commonwealth or any agency or department, showing for each the address of the real property, the state agencies relocated or otherwise affected, and the amount of the savings realized. The secretary shall file the reports with the house and senate committees on ways and means not later than October 1, 2003, and January 1, April 1, and July 1, 2004.

### **Prescription Advantage Benefit and Enrollment Structure**

SECTION 604. Notwithstanding any special or general law to the contrary, the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws and funded in item 9110-1455 of this act will incorporate the following program guidelines in fiscal year 2004:

A) Enrollment: There will be an open enrollment period, lasting not less than 1 month and not more than 2 months, that will begin no later than August 1, 2003. A person will also be eligible to enroll in the program at any time within a year of reaching age 65.

B) Out-of-Pocket Spending Limit: The program shall pay the costs of all prescription drugs for a single enrollee whose out-of-pocket expenditures on prescription drugs exceeds the lesser of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$2,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year. The program shall pay the costs of all prescription drugs for a married enrollee whose out-of-pocket expenditures on prescription drugs exceeds the lesser of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$3,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year.

C) Deductible: There will be no deductible charged to enrollees with income below 188% of the federal poverty level.

D) Co-payments: Retail co-payments for a 30 day supply for enrollees below 188% of the federal poverty level will be \$9 for generic, level 1 drugs; \$23 for brand, level 2 drugs; and \$45 for additional brand, level 3 drugs. Mail service co-payments for a 90 day supply for enrollees below 188% of the federal poverty level will be \$18 for generic, level 1 drugs; \$46 for brand, level 2 drugs; and \$80 for additional brand, level 3 drugs.

#### **Muni Med funding for School Based Health**

SECTION 605. Notwithstanding any general or special law to the contrary, monies received in the form of municipal Medicaid reimbursement from the federal government shall be used to fund the school health services program and school based health centers as described in line item 4590-0250 of section 2, provided, that the amount of said monies used for the school health services program shall sufficiently restore total funding to a level not less than \$21,317,595, and that the amount of said monies used for school based health centers shall restore total funding to an amount not less than \$3,956,025.

#### **Court Reform IX**

SECTION 606. Sections 468 to 472, inclusive, 474 and 476, shall take effect on November 1, 2003, but for the sole purpose of appointing the chief administrator of the courts, sections 6 and 6A of chapter 211B of the General Laws, as appearing in section 471 shall take effect upon the passage of this act. The administrator shall be so appointed not later than November 1, 2003. The current term of the chief justice for administration and management shall extend until November 1, 2003. All powers, duties and functions of the chief justice for administration and management shall be transferred to the chief administrator of the courts on November 1, 2003.

#### **Clarification of Line Item References to the CJAM**

SECTION 607. Every reference to the "chief justice for administration and management" or "CJAM" in section 2 of this act shall be deemed to be a reference to the "chief administrator" of the courts effective November 1, 2003.

#### **Local Aid Repeal Effective Date**

SECTION 608. Section 159 shall take effect on June 30, 2003, at which time the comptroller shall transfer any remaining balance in said fund, positive or negative, to the General Fund.

#### **Minor Fund Repeal**

SECTION 609. On June 30, 2003, the comptroller is authorized and directed to transfer any balances, positive or negative, in the following funds to the Stabilization Fund:

section 35G of chapter 10;  
section 35H of chapter 10;  
section 35J of chapter 10;  
section 35L of chapter 10;  
section 35Q of chapter 10;  
section 49 of chapter 10;  
section 51 of chapter 10;  
section 59 of chapter 10;  
section 23 of chapter 16;  
section 6L of chapter 21;  
section 17F of chapter 21;  
section 10 of chapter 21A;  
section 5A of chapter 28A;  
section 2J of chapter 29;  
section 2K of chapter 29;  
section 2P of chapter 29;  
section 2P 1/2 of chapter 29;  
section 2R of chapter 29;  
section 2S of chapter 29;  
section 2T of chapter 29;  
section 2U of chapter 29;  
section 2Y of chapter 29;  
section 2AA of chapter 29;  
section 2BB of chapter 29;  
section 2CC of chapter 29;  
section 2EE of chapter 29;  
section 2FF of chapter 29;  
section 2GG of chapter 29;  
section 2II of chapter 29;  
section 2KK of chapter 29;  
section 2LL of chapter 29;  
section 2MM of chapter 29;  
section 2NN of chapter 29;  
section 2OO of chapter 29;

section 2RR of chapter 29;  
section 2SS of chapter 29;  
section 2UU of chapter 29;  
section 2VV of chapter 29;  
section 2WW of chapter 29;  
section 2XX of chapter 29;  
section 2YY of chapter 29;  
section 2EEE of chapter 29  
section 10A1/2 of chapter 91;  
section 14 of chapter 93;  
section 323F of chapter 94;  
section 2 of chapter 119A;  
section 2B of chapter 130;  
section 10 of chapter 132A; and  
section 6 of chapter 161D;  
section 316 of chapter 194 of the acts of 1998;  
section 36 of chapter 88 of the acts of 2001;  
section 194 of chapter 184 of the acts of 2002

#### **Effective Date**

SECTION 610. Except as otherwise specified, this act shall take effect on July 1, 2003.